

(2) an applicant for a license or a license holder under Subchapter N, Chapter 431, Health and Safety Code;

(3) an applicant for a license, the owner or manager of an applicant for a massage establishment license, or a license holder under Chapter 455, Occupations Code;

(4) an applicant for employment at or current employee of:

(A) a public health hospital as defined by Section 13.033, Health and Safety Code; or

(B) the South Texas Health Care System; ~~or~~

(5) an applicant for employment at, current employee of, or person who contracts or may contract to provide goods or services with:

~~[(A) the vital statistics unit of the Department of State Health Services; or~~

~~[(B)] the Council on Sex Offender Treatment or other division or component of the Department of State Health Services that monitors sexually violent predators as described by Section 841.003(a), Health and Safety Code; or~~

~~(6) a person authorized to access vital records or the vital records electronic registration system under Chapter 191, Health and Safety Code, including an employee of or contractor for the Department of State Health Services, a local registrar, a medical professional, or a funeral director.~~

SECTION 5.05. In prescribing the initial requirements for local registrar self-assessment reports under Section 191.022(g), Health and Safety Code, as added by this article, the Department of State Health Services shall solicit comment from local registrars in this state.

SECTION 5.06. The Department of State Health Services shall prescribe policies necessary to implement Subchapter D, Chapter 191, Health and Safety Code, as added by this article, to take effect March 1, 2016.

ARTICLE 6. FEDERAL AUTHORIZATION AND EFFECTIVE DATE

SECTION 6.01. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 6.02. Except as otherwise provided by this Act, this Act takes effect September 1, 2015.

Passed the Senate on April 15, 2015: Yeas 31, Nays 0; the Senate concurred in House amendments on May 28, 2015: Yeas 31, Nays 0; passed the House, with amendments, on May 25, 2015: Yeas 143, Nays 1, one present not voting.

Approved June 17, 2015.

Effective September 1, 2015, except as provided by this Act.

TRANSFER OF CERTAIN OCCUPATIONAL REGULATORY PROGRAMS AND THE DEREGULATION OF CERTAIN ACTIVITIES AND OCCUPATIONS

CHAPTER 838

S.B. No. 202

AN ACT

relating to the transfer of certain occupational regulatory programs and the deregulation of certain activities and occupations.

Be it enacted by the Legislature of the State of Texas:

ARTICLE 1. REGULATORY PROGRAMS TRANSFERRED TO THE TEXAS
DEPARTMENT OF LICENSING AND REGULATION

PART 1. TRANSFERS DURING BIENNIUM ENDING AUGUST 31, 2017

SECTION 1.001. Subchapter D, Chapter 51, Occupations Code, is amended by adding Section 51.2031 to read as follows:

Sec. 51.2031. RULES REGARDING HEALTH-RELATED PROGRAMS; PROVISION OF INFORMATION. (a) This section applies only to the regulation of the following professions by the department:

- (1) athletic trainers;*
- (2) dietitians;*
- (3) hearing instrument fitters and dispensers;*
- (4) midwives;*
- (5) orthotists and prosthetists; and*
- (6) speech-language pathologists and audiologists.*

(a-1) The commission may not adopt a new rule relating to the scope of practice of or a health-related standard of care for a profession to which this section applies unless the rule has been proposed by the advisory board established for that profession. The commission shall adopt rules prescribing the procedure by which an advisory board may propose rules described by this subsection.

(a-2) For each rule proposed under Subsection (a-1), the commission shall either adopt the rule as proposed or return the rule to the advisory board for revision. The commission retains authority for final adoption of all rules and is responsible for ensuring compliance with all laws regarding the rulemaking process. This subsection and Subsection (a-1) expire September 1, 2019.

(b) The commission shall adopt rules clearly specifying the manner in which the department and commission will solicit input from, and on request provide information to, an advisory board established for a profession to which this section applies regarding the general investigative, enforcement, or disciplinary procedures of the department or commission.

SECTION 1.002. Section 203.002, Occupations Code, is amended by adding Subdivision (1) and amending Subdivisions (3), (4), (4-a), (6), and (9) to read as follows:

(1) "Advisory board" means the Midwives Advisory Board.

(3) "Commission" [~~"Commissioner"~~] means the Texas Commission of Licensing and Regulation [~~commissioner of state health services~~].

(4) "Department" means the Texas Department of Licensing and Regulation [~~State Health Services~~].

(4-a) "Executive director" [~~commissioner~~] means the executive director of the department [~~commissioner of the Health and Human Services Commission~~].

(6) "Midwife" means a person who practices midwifery and has met the licensing requirements established by this chapter and *commission* [~~midwifery board~~] rules.

(9) "Normal" means, as applied to pregnancy, labor, delivery, the postpartum period, and the newborn period, and as defined by *commission* [~~midwifery board~~] rule, circumstances under which a midwife has determined that a client is at a low risk of developing complications.

SECTION 1.003. Section 203.005, Occupations Code, is amended to read as follows:

Sec. 203.005. EFFECT ON LOCAL ORDINANCES. This chapter does not prohibit a municipality from adopting a local ordinance or rule to regulate the practice of midwifery in the municipality if the ordinance or rule is compatible with and at least as strict as this chapter and *commission* [~~midwifery board~~] rules.

SECTION 1.004. The heading to Subchapter B, Chapter 203, Occupations Code, is

amended to read as follows:

SUBCHAPTER B. MIDWIVES ADVISORY ~~[MIDWIFERY]~~ BOARD

SECTION 1.005. Section 203.052, Occupations Code, is amended to read as follows:

Sec. 203.052. *ADVISORY ~~[APPOINTMENT OF MIDWIFERY]~~ BOARD MEMBERSHIP.* (a) The *advisory [midwifery]* board consists of nine members appointed by the *presiding officer of the commission with the approval of the commission* as follows:

(1) five licensed midwife members each of whom has at least three years' experience in the practice of midwifery;

(2) one physician member who is certified by a national professional organization of physicians that certifies obstetricians and gynecologists;

(3) one physician member who is certified by a national professional organization of physicians that certifies family practitioners or pediatricians; and

(4) two members who represent the public and who are not practicing or trained in a health care profession, one of whom is a parent with at least one child born with the assistance of a midwife.

(b) Appointments to the *advisory [midwifery]* board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

SECTION 1.006. Subchapter B, Chapter 203, Occupations Code, is amended by adding Section 203.0521 to read as follows:

Sec. 203.0521. *DUTIES OF ADVISORY BOARD.* The *advisory board shall provide advice and recommendations to the department on technical matters relevant to the administration of this chapter.*

SECTION 1.007. Section 203.055, Occupations Code, is amended to read as follows:

Sec. 203.055. *TERMS; VACANCIES.* (a) Members of the *advisory [midwifery]* board serve for staggered terms of six years. The terms of three members expire on January 31 of each odd-numbered year.

(b) *If a vacancy occurs during a member's term, the presiding officer of the commission, with the commission's approval, shall appoint a replacement who meets the qualifications for the vacant position to serve for the remainder of the term.*

SECTION 1.008. Section 203.056, Occupations Code, is amended to read as follows:

Sec. 203.056. *PRESIDING OFFICER ~~[OFFICERS]~~.* The *presiding officer of the commission [commissioner]* shall designate a public member of the *advisory [midwifery]* board to serve as the presiding officer of the *advisory [midwifery]* board to serve for a term of one year ~~[in that capacity at the pleasure of the commissioner]~~. The *presiding officer of the advisory board may vote on any matter before the advisory board [midwifery board shall elect one of the other members of the midwifery board as vice-presiding officer]*.

SECTION 1.009. Section 203.059, Occupations Code, is amended to read as follows:

Sec. 203.059. *MEETINGS.* ~~[(a)]~~ The *advisory [midwifery]* board shall meet at ~~[least semiannually]~~.

~~[(b) The midwifery board shall meet at other times at]~~ the call of the *presiding officer of the commission or the executive director [midwifery board or the commissioner]*.

SECTION 1.010. The heading to Subchapter D, Chapter 203, Occupations Code, is amended to read as follows:

SUBCHAPTER D. POWERS AND DUTIES ~~[OF MIDWIFERY BOARD, EXECUTIVE COMMISSIONER, AND DEPARTMENT]~~

SECTION 1.011. The heading to Section 203.151, Occupations Code, is amended to read as follows:

Sec. 203.151. *GENERAL POWERS AND DUTIES* ~~[RULEMAKING AUTHORITY OF MIDWIFERY BOARD]~~.

SECTION 1.012. Section 203.151, Occupations Code, is amended by amending Subsection (a) and adding Subsections (a-1) and (a-2) to read as follows:

(a) *The executive director shall administer and enforce this chapter.*

(a-1) *The commission* ~~[Subject to the approval of the executive commissioner, the midwifery board]~~ shall:

(1) ~~[adopt substantive and procedural rules necessary for the licensing of midwives;~~

~~[(2)]~~ adopt rules prescribing the standards for the practice of midwifery in this state, including standards for:

(A) the delineation of findings that preclude a woman or newborn from being classified as having a normal pregnancy, labor, delivery, postpartum period, or newborn period; and

(B) administration of oxygen by a midwife to a mother or newborn;

(2) ~~[(3)]~~ adopt rules prescribing:

(A) the type of courses and number of hours required to meet the basic midwifery education course and continuing midwifery education course requirements; and

(B) minimum standards for the approval and revocation of approval of:

(i) basic midwifery education courses and continuing midwifery education courses; and

(ii) instructors or facilities used in basic midwifery education courses and continuing midwifery education courses; *and*

(3) ~~[(4)]~~ adopt rules prescribing a procedure for reporting and processing complaints relating to the practice of midwifery in this state;

~~[(5)]~~ adopt and implement substantive and procedural rules as necessary to discipline midwives determined to be in violation of this chapter or otherwise a threat to the public health and safety;

~~[(6)]~~ adopt rules as necessary to establish eligibility for reciprocity for initial licensing under this chapter; *and*

~~[(7)]~~ adopt other rules necessary to implement a duty imposed on the executive commissioner or the department under this chapter].

(a-2) *The department shall:*

(1) *implement rules governing:*

(A) *basic midwifery education courses and continuing midwifery education courses; and*

(B) *approval of instructors or facilities used in offering basic midwifery education courses and continuing midwifery education courses;*

(2) *prepare and distribute basic midwifery information and instructor manuals;*

(3) *enter into agreements necessary to carry out this chapter; and*

(4) *establish a program for licensure as a midwife as prescribed by commission rules.*

SECTION 1.013. Section 203.152(b), Occupations Code, is amended to read as follows:

(b) *The commission* ~~[midwifery board]~~ may not set a fee for an amount less than the amount of that fee on September 1, 1993.

SECTION 1.014. Sections 203.153(a) and (c), Occupations Code, are amended to read as follows:

(a) *The* ~~[Subject to the approval of the]~~ department~~[- the midwifery board]~~ shall issue basic information manuals for the practice of midwifery~~[- The midwifery board shall ap-~~

~~prove the basic information manuals~~] and instructor manuals that may be used in basic midwifery education courses.

(c) A basic information manual must include information about:

- (1) the knowledge necessary to practice as a midwife;
- (2) the basic education and continuing education requirements for a midwife;
- (3) the legal requirements and procedures relating to midwifery;
- (4) the standards of practice as a midwife; and
- (5) other information or procedures required by the *commission* ~~[midwifery board]~~ or the department.

SECTION 1.015. Section 203.154, Occupations Code, is amended to read as follows:

Sec. 203.154. REPORTS ON MIDWIFERY. (a) ~~[(e)]~~ The *department* ~~[midwifery board]~~ shall prepare and publish reports on the practice of midwifery in this state.

(b) *The Department of State Health Services shall publish a* ~~[-including]~~ statistical report ~~[reporting]~~ of infant fetal morbidity and mortality.

SECTION 1.016. The heading to Section 203.155, Occupations Code, is amended to read as follows:

Sec. 203.155. *COMPLAINTS* ~~[COMPLAINT PROCEDURE AND INVESTIGATION]~~.

SECTION 1.017. Sections 203.155(b) and (d), Occupations Code, are amended to read as follows:

(b) *For purposes of Section 51.252, the commission must adopt* ~~[The]~~ rules to ~~adopted under Subsection (a) must:~~

- ~~[(1) distinguish among categories of complaints;~~
- ~~[(2) ensure that a person who files a complaint has an opportunity to explain the allegations made in the complaint; and~~
- ~~[(3)]~~ provide for the release of any relevant midwifery or medical record to the *department* ~~[midwifery board]~~, without the necessity of consent by the midwife's client, as necessary to conduct an investigation of a complaint.

(d) The *department* ~~[midwifery board]~~ shall provide reasonable assistance to a person who wishes to file a complaint with the *department* regarding a person or activity regulated by this chapter ~~[midwifery board]~~.

SECTION 1.018. Section 203.252(a), Occupations Code, is amended to read as follows:

(a) A person qualifies to become a licensed midwife under this chapter if the person provides the *department* ~~[program coordinator]~~ with documentary evidence that the person has:

- (1) satisfied each requirement for basic midwifery education; and
- (2) passed the comprehensive midwifery examination and jurisprudence examination required by this chapter.

SECTION 1.019. Section 203.253, Occupations Code, is amended to read as follows:

Sec. 203.253. LICENSE APPLICATION. A person who practices midwifery must apply to the department to be licensed as a midwife *in the manner and on a form prescribed by the executive director*. The application must:

- (1) be accompanied by a nonrefundable application fee; and
- (2) include information required by *commission* ~~[midwifery board]~~ rules.

SECTION 1.020. Section 203.254, Occupations Code, is amended to read as follows:

Sec. 203.254. BASIC MIDWIFERY EDUCATION. *The commission* ~~[Subject to the approval of the executive commissioner, the midwifery board]~~ shall establish requirements for basic midwifery education.

SECTION 1.021. Section 203.255(a), Occupations Code, is amended to read as follows:

(a) The *department* ~~[midwifery board, with the approval of the executive commissioner,]~~ shall:

- (1) adopt a comprehensive midwifery examination for persons regulated under this chapter that must be passed before the initial license may be issued; and
- (2) establish eligibility requirements for persons taking a comprehensive midwifery examination.

SECTION 1.022. Section 203.2555, Occupations Code, is amended to read as follows:

Sec. 203.2555. JURISPRUDENCE EXAMINATION. (a) The *department* ~~[midwifery board]~~ shall develop and administer at least twice each calendar year a jurisprudence examination to determine an applicant's knowledge of this chapter, *commission* ~~[midwifery board]~~ rules *under this chapter*, and any other applicable laws of this state affecting the applicant's midwifery practice.

(b) *The commission* ~~[Subject to the approval of the executive commissioner, the midwifery board]~~ shall adopt rules to implement this section, including rules related to the development and administration of the examination, examination fees, guidelines for reexamination, grading the examination, and providing notice of examination results.

SECTION 1.023. Section 203.256, Occupations Code, is amended to read as follows:

Sec. 203.256. TRAINING IN NEWBORN SCREENING AND BASIC LIFE SUPPORT CARDIOPULMONARY RESUSCITATION. A person who practices midwifery in this state must provide the *department* ~~[program coordinator]~~ with satisfactory evidence that the person:

- (1) is trained to perform the newborn screening tests under Section 203.354 or has made arrangements for the performance of those tests; and

(2) holds:

(A) a current certificate issued by the American Heart Association in basic life support cardiopulmonary resuscitation; or

(B) another form of certification acceptable to the department that demonstrates proficiency in basic life support cardiopulmonary resuscitation for adults and children.

SECTION 1.024. Section 203.304, Occupations Code, is amended to read as follows:

Sec. 203.304. CONTINUING MIDWIFERY EDUCATION. (a) *The commission by rule* ~~[Subject to the approval of the executive commissioner, the midwifery board]~~ shall establish requirements for continuing midwifery education, including a minimum number of hours of continuing education required to renew a license under this chapter.

(b) On renewal of the license, a midwife must provide the *department* ~~[program coordinator]~~ with evidence, acceptable under *commission* ~~[midwifery board]~~ rules, of completion of continuing midwifery education as prescribed by the *commission by rule* ~~[midwifery board]~~.

(c) *The commission* ~~[midwifery board]~~ by rule shall develop a process to evaluate and approve continuing education courses.

SECTION 1.025. Section 203.305, Occupations Code, is amended to read as follows:

Sec. 203.305. REQUIRED ATTENDANCE AT SPECIFIC MIDWIFERY EDUCATION COURSES. The *department* ~~[midwifery board]~~ may assess the continuing education needs of licensed midwives and may require licensed midwives to attend continuing midwifery education courses specified by the *department* ~~[midwifery board]~~.

SECTION 1.026. Section 203.306, Occupations Code, is amended to read as follows:

Sec. 203.306. GROUNDS FOR REFUSING RENEWAL. The *department* ~~[midwifery board]~~ may refuse to renew the license of a person who fails to pay an administrative penalty ~~[imposed under Subchapter J,]~~ unless enforcement of the penalty is stayed or a court has ordered that the administrative penalty is not owed.

SECTION 1.027. Section 203.351(b), Occupations Code, is amended to read as follows:

(b) The *department* ~~[midwifery board]~~ shall prescribe the form of the informed choice and disclosure statement required to be used by a midwife under this chapter. The form must include:

- (1) statistics of the midwife's experience as a midwife;
- (2) the date the midwife's license expires;
- (3) the date the midwife's cardiopulmonary resuscitation certification expires;
- (4) the midwife's compliance with continuing education requirements;
- (5) a description of medical backup arrangements; and
- (6) the legal responsibilities of a midwife, including statements concerning newborn blood screening, ophthalmia neonatorum prevention, and prohibited acts under Sections 203.401–203.403.

SECTION 1.028. Section 203.352, Occupations Code, is amended to read as follows:

Sec. 203.352. PRENATAL AND CERTAIN MEDICAL CARE ENCOURAGED. A midwife shall encourage a client to seek:

- (1) prenatal care; and
- (2) medical care through consultation or referral, as specified by *commission* ~~[midwifery board]~~ rules, if the midwife determines that the pregnancy, labor, delivery, postpartum period, or newborn period of a woman or newborn may not be classified as normal for purposes of this chapter.

SECTION 1.029. Section 203.354(b), Occupations Code, is amended to read as follows:

(b) A midwife may collect blood specimens for the newborn screening tests if the midwife has been approved by the department to collect the specimen. *The commission* ~~[Subject to the approval of the executive commissioner, the midwifery board]~~ shall adopt rules establishing the standards for approval. The standards must recognize completion of a course of instruction that includes the blood specimen collection procedure or verification by appropriately trained health care providers that the midwife has been instructed in the blood collection procedures.

SECTION 1.030. Section 203.355(b), Occupations Code, is amended to read as follows:

(b) The *Department of State Health Services* ~~[department]~~ and a local health department, a public health district, or a local health unit shall provide clinical and laboratory support services to a pregnant woman or a newborn who is a client of a midwife if the midwife is required to provide the services under this chapter.

SECTION 1.031. Section 203.356(a), Occupations Code, is amended to read as follows:

(a) A physician, a registered nurse, or other person who, on the order of a physician, instructs a midwife in the approved techniques for collecting blood specimens to be used for newborn screening tests is immune from liability arising out of the failure or refusal of the midwife to:

- (1) collect the specimens in the approved manner; or
- (2) submit the specimens to the *Department of State Health Services* ~~[department]~~ in a timely manner.

SECTION 1.032. Sections 203.357(a) and (b), Occupations Code, are amended to read as follows:

(a) The *department* ~~[midwifery board]~~ may require information in addition to that required by Section 203.253 if it determines the additional information is necessary and appropriate to ascertain the nature and extent of midwifery in this state. The *department* ~~[midwifery board]~~ may not require information regarding any act that is prohibited under this chapter.

(b) *The* ~~[With the approval of the midwifery board, the]~~ department shall prescribe forms for the additional information and shall distribute those forms directly to each midwife. Each midwife must complete and return the forms to the department as requested.

SECTION 1.033. Section 203.401, Occupations Code, is amended to read as follows:

Sec. 203.401. PROHIBITED PRACTICES. A midwife may not:

- (1) provide midwifery care in violation of *commission* ~~[midwifery board]~~ rule, except in an emergency that poses an immediate threat to the life of a woman or newborn;
- (2) administer a prescription drug to a client other than:
 - (A) a drug administered under the supervision of a licensed physician in accordance with state law;
 - (B) prophylaxis approved by the *Department of State Health Services* ~~[department]~~ to prevent ophthalmia neonatorum; or
 - (C) oxygen administered in accordance with *commission* ~~[midwifery board]~~ rule;
- (3) use forceps or a surgical instrument for a procedure other than cutting the umbilical cord or providing emergency first aid during delivery;
- (4) remove placenta by invasive techniques;
- (5) use a mechanical device or medicine to advance or retard labor or delivery; or
- (6) make on a birth certificate a false statement or false record in violation of Section 195.003, Health and Safety Code.

SECTION 1.034. Section 203.404, Occupations Code, is amended to read as follows:

Sec. 203.404. GROUNDS FOR DISCIPLINARY ACTION. (a) The *commission or executive director* ~~[midwifery board]~~ may discipline a licensed midwife, refuse to renew a midwife's license, or refuse to issue a license to an applicant if the person:

- (1) violates this chapter or a rule adopted under this chapter;
- (2) submits false or misleading information to the ~~[midwifery board or the]~~ department;
- (3) is convicted of a misdemeanor involving moral turpitude or a felony;
- (4) uses alcohol or drugs intemperately;
- (5) engages in unprofessional or dishonorable conduct that may reasonably be determined to deceive or defraud the public;
- (6) is unable to practice midwifery with reasonable skill and safety because of illness, disability, or psychological impairment;
- (7) is determined by a court judgment to be mentally impaired;
- (8) submits a birth or death certificate known by the person to be false or fraudulent or engages in another act that violates Title 3, Health and Safety Code, or a rule adopted under that title;
- (9) violates Chapter 244, Health and Safety Code, or a rule adopted under that chapter; or
- (10) fails to practice midwifery in a manner consistent with the public health and safety.

(b) The *commission or executive director* ~~[midwifery board]~~ may discipline a licensed midwife and may refuse to issue a license to an applicant for a disciplinary action taken by another jurisdiction that affects the person's authority to practice midwifery, including a suspension, a revocation, or another action.

SECTION 1.035. Section 203.406, Occupations Code, is amended to read as follows:

Sec. 203.406. REFUND. (a) Subject to Subsection (b), the *commission or executive director* ~~[midwifery board]~~ may order a licensed midwife to pay a refund to a consumer as provided in an *agreed settlement, default order, or commission order* ~~[agreement resulting from an informal settlement conference]~~ instead of or in addition to imposing an administrative penalty *against the license holder* ~~[under this chapter]~~.

(b) The amount of a refund ordered ~~[as provided in an agreement resulting from an informal settlement conference]~~ may not exceed the amount the consumer paid to the

licensed midwife for a service regulated by this chapter. The *commission or executive director* ~~[midwifery board]~~ may not require payment of other damages or estimate harm in a refund order.

SECTION 1.036. Section 203.501(a), Occupations Code, is amended to read as follows:

(a) A person is liable for a civil penalty if the person is required to be licensed under this chapter and the person knowingly or intentionally practices midwifery:

- (1) without a license or while the license is suspended or revoked; or
- (2) in violation of a *commission* ~~[midwifery board]~~ order.

SECTION 1.037. Section 203.502(b), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(b) If the *executive director* ~~[department]~~ or a health authority determines that a person has violated this chapter, ~~the executive director may institute an action described by Section 51.352 [and that the violation creates an immediate threat to the health and safety of the public, the department, or the health authority with the concurrence of the department, may request the attorney general or a district, county, or city attorney to bring an action in a district court for a restraining order to restrain the violation].~~

SECTION 1.038. Section 203.503(a), Occupations Code, is amended to read as follows:

(a) Venue for a civil action *arising out of the imposition of an administrative penalty* ~~[brought under Section 203.451 or 203.452]~~ is in the county in which the defendant resides or in the county in which the violation occurred.

SECTION 1.039. Section 203.505(b), Occupations Code, is amended to read as follows:

(b) A violation of a *cease and desist* ~~[an]~~ order *issued by the executive director* ~~[under this section]~~ constitutes grounds for imposing an administrative penalty ~~[under Subchapter J]~~.

SECTION 1.040. Section 401.001, Occupations Code, is amended by amending Subdivisions (1), (3), (4), and (4-a) and adding Subdivisions (1-a) and (4-b) to read as follows:

(1) “Advisory board” means the *Speech–Language Pathologists and Audiologists Advisory Board*.

(1-a) “Audiologist” means a person who meets the qualifications of this chapter to practice audiology.

(3) “Commission” ~~[“Board”]~~ means the *Texas Commission of Licensing and Regulation* ~~[State Board of Examiners for Speech–Language Pathology and Audiology]~~.

(4) “Department” means the *Texas Department of Licensing and Regulation* ~~[State Health Services]~~.

(4-a) “Executive director” means the *executive director of the department*.

(4-b) “Hearing instrument” has the meaning assigned by Section 402.001.

SECTION 1.041. Section 401.052, Occupations Code, is amended to read as follows:

Sec. 401.052. NURSES. This chapter does not prevent or restrict a communication, speech, language, or hearing screening, as defined by *commission* ~~[board]~~ rule, from being conducted by a registered nurse:

(1) licensed in this state; and

(2) practicing in accordance with the standards of professional conduct and ethics established by rules adopted by the Texas Board of Nursing.

SECTION 1.042. Section 401.053, Occupations Code, is amended to read as follows:

Sec. 401.053. PERSONS TRAINED BY DEPARTMENT OF STATE HEALTH SERVICES. (a) This chapter does not apply to a person who shows evidence of having received training by the *Department of State Health Services* ~~[department]~~ in a communication, speech, language, or hearing screening training program approved by *that* ~~[the]~~ department if the person’s activity is limited to screening as defined by *commission* ~~[board]~~ rule.

(b) A person who has received training by the *Department of State Health Services* ~~[department]~~ in a program under Subsection (a) may not:

- (1) practice speech-language pathology or audiology; or
- (2) represent that the person is a speech-language pathologist or audiologist.

SECTION 1.043. Sections 401.054(b), (c), and (d), Occupations Code, are amended to read as follows:

(b) The Texas Education Agency certificate in speech-language pathology must require an applicant to:

- (1) hold a master's degree in communicative disorders or the equivalent from a university program accredited by the American Speech–Language–Hearing Association; and
- (2) pass a national examination in speech-language pathology or audiology approved by the *department* ~~[board]~~.

(c) A person affected by this section who performs work as a speech-language pathologist or audiologist in addition to performing the person's duties within an agency, institution, or organization under the jurisdiction of the Texas Education Agency is required to hold a license issued by the *department* ~~[board]~~ unless that work is limited to speech and hearing screening procedures performed without compensation.

(d) For the purposes of Subsection (b)(1), an applicant's educational credentials are equivalent to a master's degree in communicative disorders if the credentials:

- (1) consist of graduate-level course work and practicum from a program accredited by the American Speech–Language–Hearing Association; and
- (2) meet requirements that are the same as those established by the *department* ~~[board]~~ for a license in speech-language pathology or audiology.

SECTION 1.044. The heading to Subchapter C, Chapter 401, Occupations Code, is amended to read as follows:

SUBCHAPTER C. ~~[STATE BOARD OF EXAMINERS FOR]~~ SPEECH-
LANGUAGE PATHOLOGISTS ~~[PATHOLOGY]~~ AND AUDIOLOGISTS ADVI-
SORY BOARD ~~[AUDIOLOGY]~~

SECTION 1.045. Section 401.102, Occupations Code, is amended to read as follows:

Sec. 401.102. *ADVISORY BOARD MEMBERSHIP.* (a) The *advisory* board consists of nine members appointed by the *presiding officer of the commission with the approval of the commission* ~~[governor]~~ as follows:

- (1) three audiologist members;
- (2) three speech-language pathologist members; and
- (3) three members who represent the public.

(b) *Advisory board* ~~[Board]~~ members must:

- (1) have been a resident of this state for the two years preceding the date of appointment;
- (2) be from the various geographic regions of the state; and
- (3) be from varying employment settings.

(c) The *advisory* board members appointed under Subsections (a)(1) and (2) must:

- (1) have been engaged in teaching, research, or providing services in speech-language pathology or audiology for at least five years; and
- (2) be licensed under this chapter.

(d) One of the public *advisory* board members must be a physician licensed in this state and certified in otolaryngology or pediatrics.

(e) Appointments to the *advisory* board shall be made without regard to the race, creed, sex, religion, or national origin of the appointee.

SECTION 1.046. Subchapter C, Chapter 401, Occupations Code, is amended by adding Section 401.10205 to read as follows:

Sec. 401.10205. DUTIES OF ADVISORY BOARD. The advisory board shall provide advice and recommendations to the department on technical matters relevant to the administration of this chapter.

SECTION 1.047. The heading to Section 401.105, Occupations Code, is amended to read as follows:

Sec. 401.105. TERMS; VACANCIES.

SECTION 1.048. Section 401.105(b), Occupations Code, is amended to read as follows:

(b) *If a vacancy occurs during a member's term, the presiding officer of the commission, with the commission's approval, shall appoint a replacement who meets the qualifications for the vacant position to serve for the remainder of the term [A person may not be appointed to serve more than two consecutive terms].*

SECTION 1.049. Section 401.107, Occupations Code, is amended to read as follows:

Sec. 401.107. *PRESIDING OFFICER [BOARD OFFICERS]. (a) The presiding officer of the commission [governor] shall designate a member of the advisory board to serve as the presiding officer of the advisory board for a term of one year [to serve in that capacity at the will of the governor].*

(b) *The presiding officer of the advisory board may vote on any matter before the advisory board [must hold a license under this chapter].*

SECTION 1.050. Section 401.108, Occupations Code, is amended to read as follows:

Sec. 401.108. MEETINGS. ~~[(a)]~~ *The advisory board shall meet [hold at least two regular meetings each year].*

~~[(b) Additional meetings may be held]~~ *at the call of the presiding officer of the commission or the executive director [on the written request of any three members of the board].*

SECTION 1.051. The heading to Subchapter E, Chapter 401, Occupations Code, is amended to read as follows:

SUBCHAPTER E. ~~[BOARD AND DEPARTMENT]~~ POWERS AND DUTIES

SECTION 1.052. Section 401.201, Occupations Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) *The executive director shall administer and enforce this chapter.*

(a-1) *The [With the assistance of the] department[, the board] shall:*

- (1) ~~[administer, coordinate, and enforce this chapter;~~
- ~~[(2)]~~ *evaluate the qualifications of license applicants;*
- (2) ~~[(3)]~~ *provide for the examination of license applicants;*
- (3) ~~[(4)]~~ *in connection with a hearing under this chapter [Section 401.454], issue subpoenas, examine witnesses, and administer oaths under the laws of this state; and*
- (4) ~~[(5) conduct hearings and keep records and minutes necessary to the orderly administration of this chapter; and~~
- ~~[(6)]~~ *investigate persons engaging in practices that violate this chapter.*

SECTION 1.053. Section 401.202, Occupations Code, is amended to read as follows:

Sec. 401.202. *STANDARDS OF ETHICAL PRACTICE [RULEMAKING AUTHORITY]. The commission [board] shall adopt rules under [necessary to administer and enforce] this chapter[, including rules] that establish standards of ethical practice.*

SECTION 1.054. Section 401.2021, Occupations Code, is amended to read as follows:

Sec. 401.2021. *[JOINT] RULES FOR HEARING INSTRUMENTS. With the assistance of the advisory [department, the] board and the Hearing Instrument Fitters and*

Dispensers Advisory Board, the commission ~~[State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments]~~ shall ~~[jointly]~~ adopt rules to establish requirements for each sale of a hearing instrument *for purposes of this chapter and Chapter 402*. The rules must:

(1) address:

(A) the information and other provisions required in each written contract for the purchase of a hearing instrument;

(B) records that must be retained under this chapter or Chapter 402; and

(C) guidelines for the 30-day trial period during which a person may cancel the purchase of a hearing instrument; and

(2) require that the written contract and 30-day trial period information provided to a purchaser of a hearing instrument be in plain language designed to be easily understood by the average consumer.

SECTION 1.055. Section 401.2022, Occupations Code, is amended to read as follows:

Sec. 401.2022. ~~[JOINT]~~ RULES FOR FITTING AND DISPENSING OF HEARING INSTRUMENTS BY TELEPRACTICE. (a) *In this section, "telepractice" means the use of telecommunications technology by a license holder for an assessment, intervention, or consultation regarding a speech-language pathology or audiology client.*

(b) *With the assistance of the advisory* ~~[department, the]~~ board and the *Hearing Instrument Fitters and Dispensers Advisory Board, the commission* ~~[State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments]~~ shall ~~[jointly]~~ adopt rules to establish requirements for the fitting and dispensing of hearing instruments by the use of telepractice *for purposes of this chapter and Chapter 402, including rules that establish the qualifications and duties of license holders who use telepractice.*

SECTION 1.056. The heading to Section 401.203, Occupations Code, is amended to read as follows:

Sec. 401.203. *ASSISTANCE FILING COMPLAINT* ~~[BOARD DUTIES REGARDING COMPLAINTS]~~.

SECTION 1.057. Section 401.203(c), Occupations Code, is amended to read as follows:

(c) *The department* ~~[board]~~ shall provide reasonable assistance to a person who wishes to file a complaint with the *department regarding a person or activity regulated under this chapter* ~~[board]~~.

SECTION 1.058. Section 401.251, Occupations Code, is amended to read as follows:

Sec. 401.251. *TELEPHONE NUMBER FOR COMPLAINTS*. The *department* ~~[board]~~ shall list with its regular telephone number any toll-free telephone number established under other state law that may be called to present a complaint about a health professional.

SECTION 1.059. The heading to Section 401.253, Occupations Code, is amended to read as follows:

Sec. 401.253. ~~[GENERAL]~~ *RULES REGARDING USE OF PRIVATE INVESTIGATOR* ~~[REGARDING COMPLAINT INVESTIGATION AND DISPOSITION]~~.

SECTION 1.060. Section 401.253(a), Occupations Code, is amended to read as follows:

(a) *For purposes of Section 51.252, the commission must* ~~[The board shall]~~ adopt rules to ~~[concerning the investigation of a complaint filed with the board. The rules must:~~

~~[(1) distinguish among categories of complaints;~~

~~[(2) ensure that a complaint is not dismissed without appropriate consideration;~~

~~[(3) require that the board be advised of a complaint that is dismissed and that a letter be sent to the person who filed the complaint explaining the action taken on the dismissed complaint;~~

~~[(4) ensure that the person who filed the complaint has an opportunity to explain the allegations made in the complaint; and~~

[(5)] prescribe guidelines concerning the categories of complaints *under this chapter* that require the use of a private investigator and the procedures for the *department [board]* to obtain the services of a private investigator.

SECTION 1.061. The heading to Section 401.2535, Occupations Code, is amended to read as follows:

Sec. 401.2535. *CONFIDENTIALITY OF COMPLAINT AND DISCIPLINARY INFORMATION [INVESTIGATION; SUBPOENA]*.

SECTION 1.062. Sections 401.2535(h) and (i), Occupations Code, are amended to read as follows:

(h) All information and materials subpoenaed or compiled by the *department [board]* in connection with a complaint and investigation are confidential and not subject to disclosure under Chapter 552, Government Code, and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release to anyone other than the *department [board]* or its employees or agents involved in discipline of the holder of a license, except that this information may be disclosed to:

(1) persons involved with the *department [board]* in a disciplinary action against the holder of a license;

(2) professional speech-language pathologist and audiologist licensing or disciplinary boards in other jurisdictions;

(3) peer assistance programs approved by the *commission [board]* under Chapter 467, Health and Safety Code;

(4) law enforcement agencies; and

(5) persons engaged in bona fide research, if all individual-identifying information has been deleted.

(i) The filing of formal charges by the *department [board]* against a holder of a license, the nature of those charges, disciplinary proceedings of the *department, commission, or executive director [board]*, and final disciplinary actions, including warnings and reprimands, by the *department, commission, or executive director [board]* are not confidential and are subject to disclosure in accordance with Chapter 552, Government Code.

SECTION 1.063. Section 401.302, Occupations Code, is amended to read as follows:

Sec. 401.302. ISSUANCE OF LICENSE. (a) The *department [board]* shall issue a license to an applicant who meets the requirements of this chapter and who pays to the *department [board]* the initial nonrefundable license fee.

(b) The *department [board]* may issue to an applicant a license in either speech-language pathology or audiology.

(c) The *department [board]* may issue a license in both speech-language pathology and audiology to an applicant.

(d) The *commission [board]* by rule shall establish qualifications for dual licensing in speech-language pathology and audiology and may develop a full range of licensing options and establish rules for qualifications.

SECTION 1.064. Section 401.303(a), Occupations Code, is amended to read as follows:

(a) A person who desires a license under this chapter must apply to the *department [board]* on a form and in the manner *prescribed by the executive director [board prescribes]*.

SECTION 1.065. Sections 401.304(a) and (c), Occupations Code, are amended to read as follows:

(a) To be eligible for licensing as a speech-language pathologist or audiologist, an applicant must:

(1) if the application is for a license in:

(A) speech-language pathology, possess at least a master's degree with a major in

at least one of the areas of communicative sciences or disorders from a program accredited by a national accrediting organization that is approved by the *commission or department* [board] and recognized by the United States secretary of education under the Higher Education Act of 1965 (20 U.S.C. Section 1001 et seq.) in an accredited or approved college or university; or

(B) audiology, possess at least a doctoral degree in audiology or a related hearing science from a program accredited by a national accrediting organization that is approved by the *commission or department* [board] and recognized by the United States secretary of education under the Higher Education Act of 1965 (20 U.S.C. Section 1001 et seq.) in an accredited or approved college or university;

(2) submit a transcript from a public or private institution of higher learning showing successful completion of course work in amounts set by the *commission by rule* [board] in:

(A) normal development and use of speech, language, and hearing;

(B) evaluation, habilitation, and rehabilitation of speech, language, and hearing disorders; and

(C) related fields that augment the work of clinical practitioners of speech-language pathology and audiology;

(3) have successfully completed at least 36 semester hours in courses that are acceptable toward a graduate degree by the college or university in which the courses are taken, at least 24 of which must be in the professional area for which the license is requested;

(4) have completed the minimum number of hours, established by the *commission by rule* [board], of supervised clinical experience with persons who present a variety of communication disorders; and

(5) have completed the full-time supervised professional experience, as defined by *commission* [board] rule, in which clinical work has been accomplished in the major professional area for which the license is being sought.

(c) Supervised professional experience under Subsection (a)(5) must:

(1) be under the supervision of a qualified person acceptable to the *department* [board] under guidelines approved by the *commission* [board]; and

(2) begin after completion of the academic and clinical experience required by this section.

SECTION 1.066. Section 401.3041, Occupations Code, is amended to read as follows:

Sec. 401.3041. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR LICENSE ISSUANCE. (a) The *department* [board] shall require that an applicant for a license submit a complete and legible set of fingerprints, on a form prescribed by the *department* [board], to the *department* [board] or to the Department of Public Safety for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation.

(b) The *department* [board] may not issue a license to a person who does not comply with the requirement of Subsection (a).

(c) The *department* [board] shall conduct a criminal history check of each applicant for a license using information:

(1) provided by the individual under this section; and

(2) made available to the *department* [board] by the Department of Public Safety, the Federal Bureau of Investigation, and any other criminal justice agency under Chapter 411, Government Code.

(d) The *department* [~~Department of State Health Services on behalf of the board~~] may:

(1) enter into an agreement with the Department of Public Safety to administer a criminal history check required under this section; and

(2) authorize the Department of Public Safety to collect from each applicant the costs incurred by the Department of Public Safety in conducting the criminal history check.

SECTION 1.067. Section 401.305, Occupations Code, is amended to read as follows:

Sec. 401.305. EXAMINATION. (a) To obtain a license, an applicant must:

(1) pass an ~~a validated~~ examination approved by the *commission by rule* [board]; and

(2) pay fees in a manner prescribed by the *commission by rule* [board].

(b) The *department* [board] shall:

~~(1)~~ administer an examination at least twice each year.

~~(b-1)~~ The *commission by rule* shall:

~~(2)~~ determine standards for acceptable performance on the examination; ~~and~~

~~(3) maintain a record of all examination scores for at least two years after the date of examination].~~

(c) The *commission* [board] by rule may:

(1) establish procedures for the administration of the examination; and

(2) require a written or oral examination, or both.

(d) The *commission by rule* [board] may require the examination of [examine] an applicant in any theoretical or applied field of speech-language pathology or audiology it considers appropriate. The *commission by rule* [board] may require the examination of [examine] an applicant on professional skills and judgment in the use of speech-language pathology or audiology techniques or methods.

SECTION 1.068. Section 401.307(b), Occupations Code, is amended to read as follows:

(b) An applicant who fails two examinations may not be reexamined until the person:

(1) submits a new application accompanied by a nonrefundable application fee; and

(2) presents evidence acceptable to the *department* [board] of additional study in the area for which a license is sought.

SECTION 1.069. Section 401.308, Occupations Code, is amended to read as follows:

Sec. 401.308. PROVISIONAL LICENSE; CERTIFICATE OF CLINICAL COMPETENCE WAIVER. (a) The *department* [board] may grant a provisional license to an applicant who:

(1) is licensed in good standing as a speech-language pathologist or an audiologist in another state that has licensing requirements that are substantially equivalent to the requirements of this chapter;

(2) has passed a national or other examination recognized by the *department* [board] relating to speech-language pathology or audiology; and

(3) is sponsored by a license holder with whom the provisional license holder may practice under this section.

(b) An applicant for a provisional license may be excused from the requirement of Subsection (a)(3) if the *department* [board] determines that compliance with that requirement is a hardship to the applicant.

(c) A provisional license is valid until the date the *department* [board] approves or denies the provisional license holder's application for a license.

(d) The *department* [board] shall issue a license under this chapter to a provisional license holder:

(1) who passes the examination required by Section 401.305;

(2) for whom the *department* [board] verifies satisfaction of the academic and experience requirements for a license under this chapter; and

(3) who satisfies any other license requirements under this chapter.

(e) The *department* [board] shall complete the processing of a provisional license holder's application for a license not later than the 180th day after the date the provisional license is issued.

(f) The *department* [board] may waive the examination requirement and issue a license to an applicant who holds the Certificate of Clinical Competence of the American Speech–Language–Hearing Association.

SECTION 1.070. Section 401.310(a), Occupations Code, is amended to read as follows:

(a) The *department* [board] shall issue a temporary certificate of registration to an applicant who:

- (1) satisfies the requirements of Section 401.304;
- (2) has not previously applied to take the examination; and
- (3) pays the nonrefundable application fee.

SECTION 1.071. Section 401.311(c), Occupations Code, is amended to read as follows:

(c) The *commission* [board] by rule shall:

- (1) prescribe the terms governing a person's practice as an intern under this section; and
- (2) establish general guidelines and renewal procedures for the holder of an intern license.

SECTION 1.072. Sections 401.312(a) and (b), Occupations Code, are amended to read as follows:

(a) The *commission by rule* [board] may establish minimum qualifications for licensed assistants in speech-language pathology and in audiology.

(b) A licensed assistant in speech-language pathology or in audiology must meet the minimum qualifications established by the *commission* [board].

SECTION 1.073. Section 401.351, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 401.351. *LICENSE TERM [EXPIRATION]*. [(a)] A license issued under this chapter is valid for two years. [The board by rule may adopt a system under which licenses expire on various dates during the year.

[(b) For the year in which the license expiration date is changed, license fees payable on the original expiration date shall be prorated on a monthly basis so that each license holder pays only the portion of the license fee that is allocable to the number of months during which the license is valid. On renewal of the license on the new expiration date, the total license renewal fee is payable.]

SECTION 1.074. Section 401.352(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) Each licensed speech-language pathologist or audiologist must pay the nonrefundable fee for license renewal. [The board shall allow a 60-day grace period. After expiration of the grace period, the board may renew a license on payment of a penalty set by board rule.]

SECTION 1.075. Section 401.355, Occupations Code, is amended to read as follows:

Sec. 401.355. *CONTINUING EDUCATION*. (a) The *commission by rule* [board] shall establish uniform mandatory continuing education requirements. A license holder may not renew the person's license unless the person meets the continuing education requirements.

(b) The *commission* [board] shall establish the requirements in a manner that allows a license holder to comply without an extended absence from the license holder's county of residence.

SECTION 1.076. Section 401.401(c), Occupations Code, is amended to read as follows:

(c) The *commission* [board] shall adopt rules necessary to enforce this section.

SECTION 1.077. Section 401.403(b), Occupations Code, is amended to read as follows:

(b) A person who meets the requirements of this chapter for licensing as an audiologist or audiologist intern and who fits and dispenses hearing instruments must:

- (1) register with the *department* [board] the person's intention to fit and dispense hearing instruments;
- (2) comply with the profession's code of ethics;
- (3) comply with the federal Food and Drug Administration guidelines for fitting and dispensing hearing instruments;
- (4) when providing services in this state, use a written contract that contains the *department's* [board's] name, mailing address, and telephone number; and
- (5) follow the guidelines adopted by *commission* [board] rule for a 30-day trial period on every hearing instrument purchased.

SECTION 1.078. Section 401.451(a), Occupations Code, is amended to read as follows:

(a) After a hearing, the *commission or executive director* [board] may deny a license to an applicant or may suspend or revoke a person's license or place on probation a license holder if the applicant or license holder:

- (1) violates this chapter or an order *issued or rule adopted under this chapter* [of the board];
- (2) obtains a license by means of fraud, misrepresentation, or concealment of a material fact;
- (3) sells, barter, or offers to sell or barter a license or certificate of registration; or
- (4) engages in unprofessional conduct that:
 - (A) endangers or is likely to endanger the health, welfare, or safety of the public as defined by *commission* [board] rule; or
 - (B) violates the code of ethics adopted and published by the *commission* [board].

SECTION 1.079. Section 401.453(a), Occupations Code, is amended to read as follows:

(a) The *commission or department* [board] may deny a license or may suspend or revoke a license if the applicant or license holder has been convicted of a misdemeanor involving moral turpitude or a felony. The *commission or department* [board] may take action authorized by this section when:

- (1) the time for appeal of the person's conviction has elapsed;
- (2) the judgment or conviction has been affirmed on appeal; or
- (3) an order granting probation is made suspending the imposition of the person's sentence, without regard to whether a subsequent order:
 - (A) allows a withdrawal of a plea of guilty; .
 - (B) sets aside a verdict of guilty; or
 - (C) dismisses an information or indictment.

SECTION 1.080. Section 401.5021, Occupations Code, is amended to read as follows:

Sec. 401.5021. ~~[BOARD-ORDERED]~~ REFUND. The *commission or executive director* [board] may order an audiologist to pay a refund to a consumer who returns a hearing instrument during the 30-day trial period required by rules adopted under Section 401.2021.

SECTION 1.081. Section 401.552(a), Occupations Code, is amended to read as follows:

(a) The amount of an [the] administrative penalty *imposed for a violation of this chapter or a rule adopted or order issued under this chapter* may not be less than \$50 or more than \$5,000 for each violation. Each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty.

SECTION 1.082. Section 402.001, Occupations Code, is amended by amending Subdivisions (2), (3), and (6), amending Subdivision (3—a), as added by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, and adding Subdivision (1) to read as follows:

(1) “Advisory board” means the *Hearing Instrument Fitters and Dispensers Advisory Board*.

(2) “Commission” [~~“Committee”~~] means the *Texas Commission of Licensing and Regulation* [~~State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments~~].

(3) “Department” means the *Texas Department of Licensing and Regulation* [~~State Health Services~~].

(3—a) “Executive director” [~~commissioner~~] means the executive director [~~commissioner~~] of the department [~~Health and Human Services Commission~~].

(6) “License” means a license issued by the department [~~committee~~] under this chapter to a person authorized to fit and dispense hearing instruments.

SECTION 1.083. The heading to Subchapter B, Chapter 402, Occupations Code, is amended to read as follows:

SUBCHAPTER B. *HEARING INSTRUMENT FITTERS AND DISPENSERS
ADVISORY BOARD* [~~STATE COMMITTEE OF EXAMINERS IN THE FIT-
TING AND DISPENSING OF HEARING INSTRUMENTS~~]

SECTION 1.084. Section 402.051, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 402.051. *ADVISORY BOARD* [~~COMMITTEE~~]; MEMBERSHIP. (a) The *advisory board* [~~State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments is part of the department and~~] consists of nine members appointed by the *presiding officer of the commission* [~~governor~~] with the approval [~~advice and consent~~] of the *commission* [~~senate~~] as follows:

(1) six members licensed under this chapter who have been residents of this state actually engaged in fitting and dispensing hearing instruments for at least five years preceding appointment, not more than one of whom may be licensed under Chapter 401;

(2) one member who is actively practicing as a physician licensed by the Texas Medical Board and who:

(A) has been a resident of this state for at least two years preceding appointment;

(B) is a citizen of the United States; and

(C) specializes in the practice of otolaryngology; and

(3) two members of the public.

(b) Appointments to the *advisory board* [~~committee~~] shall be made without regard to the race, creed, sex, religion, or national origin of the appointee.

SECTION 1.085. Subchapter B, Chapter 402, Occupations Code, is amended by adding Section 402.0511 to read as follows:

Sec. 402.0511. DUTIES OF ADVISORY BOARD. The advisory board shall provide advice and recommendations to the department on technical matters relevant to the administration of this chapter.

SECTION 1.086. Section 402.055, Occupations Code, is amended to read as follows:

Sec. 402.055. *TERMS; VACANCIES.* (a) Members of the *advisory board* [~~committee~~] serve staggered six-year terms. *The terms of three members expire on February 1 of each odd-numbered year.*

(b) *If a vacancy occurs during a member’s term, the presiding officer of the commission,*

with the commission's approval, shall appoint a replacement who meets the qualifications for the vacant position to serve for the remainder of the term ~~[A member who has served two full consecutive terms on the committee is not eligible for reappointment to the committee for the 12 months following the expiration of the second full term].~~

~~[(c) In the event of the death, resignation, or removal of a member, the governor shall fill the vacancy of the unexpired term in the same manner as other appointments.]~~

SECTION 1.087. Section 402.057, Occupations Code, is amended to read as follows:

Sec. 402.057. *PRESIDING OFFICER* ~~[OFFICERS]~~. ~~[(a)]~~ The *presiding officer of the commission* ~~[governor]~~ shall designate a member of the *advisory board to serve* ~~[committee]~~ as the presiding officer of the *advisory board for a term of* ~~[committee to serve in that capacity at the will of the governor]~~.

~~[(b) The term of office as an officer of the committee is] one year. The presiding officer of the advisory board may vote on any matter before the advisory board.~~

SECTION 1.088. Section 402.058, Occupations Code, is amended to read as follows:

Sec. 402.058. *MEETINGS*. ~~[(a)]~~ The *advisory board* ~~[committee]~~ shall *meet* ~~[hold regular meetings at least twice a year]~~.

~~[(b) A special meeting of the committee shall be held]~~ at the call of the presiding officer of the commission or the executive director ~~[a majority of the members]~~.

SECTION 1.089. The heading to Subchapter C, Chapter 402, Occupations Code, is amended to read as follows:

SUBCHAPTER C. ~~[COMMITTEE]~~ POWERS AND DUTIES

SECTION 1.090. Section 402.101, Occupations Code, is amended to read as follows:

Sec. 402.101. *GENERAL POWERS AND DUTIES*. (a) *The executive director* ~~[With the assistance of the department, the committee]~~ shall:

~~[(1)]~~ administer~~[-coordinate]~~ and enforce this chapter.

(b) *The department shall:*

(1) ~~[(1)]~~;

~~[(2)]~~ evaluate the qualifications of applicants;

(2) ~~[(2)]~~ examine applicants; and

(3) ~~[(4)]~~ in connection with a hearing under *this chapter* ~~[Section 402.502]~~, issue subpoenas, examine witnesses, and administer oaths under the laws of this state~~[-and~~

~~[(5) conduct hearings and keep records and minutes necessary to the orderly administration of this chapter]~~.

SECTION 1.091. Section 402.1021, Occupations Code, is amended to read as follows:

Sec. 402.1021. *[JOINT] RULES FOR HEARING INSTRUMENTS*. With the assistance of the *advisory board and the Speech-Language Pathologists and Audiologists Advisory Board* ~~[department]~~, the *commission* ~~[committee and the State Board of Examiners for Speech-Language Pathology and Audiology]~~ shall ~~[jointly]~~ adopt rules to establish requirements for each sale of a hearing instrument *for purposes of this chapter and Chapter 401*. The rules must:

(1) address:

(A) the information and other provisions required in each written contract for the purchase of a hearing instrument;

(B) records that must be retained under this chapter or Chapter 401; and

(C) guidelines for the 30-day trial period during which a person may cancel the purchase of a hearing instrument; and

(2) require that the written contract and 30-day trial period information provided to a purchaser of a hearing instrument be in plain language designed to be easily understood by the average consumer.

SECTION 1.092. Section 402.1023, Occupations Code, is amended to read as follows:

Sec. 402.1023. ~~[JOINT] RULES FOR FITTING AND DISPENSING OF HEARING INSTRUMENTS BY TELEPRACTICE.~~ (a) *In this section, "telepractice" means the use of telecommunications technology by a license holder for the fitting and dispensing of hearing instruments.*

(b) *With the assistance of the advisory board and the Speech-Language Pathologists and Audiologists Advisory Board [department], the commission [committee and the State Board of Examiners for Speech-Language Pathology and Audiology] shall [jointly] adopt rules to establish requirements for the fitting and dispensing of hearing instruments by the use of telepractice for purposes of this chapter and Chapter 401, including rules that establish the qualifications and duties of license holders who use telepractice.*

SECTION 1.093. The heading to Section 402.103, Occupations Code, is amended to read as follows:

Sec. 402.103. ~~FALSE, MISLEADING, OR DECEPTIVE [RULES RESTRICTING] ADVERTISING [OR COMPETITIVE BIDDING].~~

SECTION 1.094. Section 402.103(c), Occupations Code, is amended to read as follows:

(c) *For purposes of Section 51.204, an [An] advertisement is false, misleading, or deceptive if the advertisement:*

- (1) contains a misrepresentation of fact;
- (2) contains a false statement as to the license holder's professional achievements, education, skills, or qualifications in the hearing instrument dispensing profession;
- (3) makes a partial disclosure of relevant fact, including the advertisement of:
 - (A) a discounted price of an item without identifying in the advertisement or at the location of the item:
 - (i) the specific product being offered at the discounted price; or
 - (ii) the usual price of the item; and
 - (B) the price of a specifically identified hearing instrument, if more than one hearing instrument appears in the same advertisement without an accompanying price;
- (4) contains a representation that a product innovation is new, if the product was first offered by the manufacturer to the general public in this state not less than 12 months before the date of the advertisement;
- (5) states that the license holder manufactures hearing instruments at the license holder's office location unless the next statement discloses that the instruments are manufactured by a specified manufacturer and remanufactured by the license holder; or
- (6) contains any other representation, statement, or claim that is inherently misleading or deceptive.

SECTION 1.095. Sections 402.104(a) and (e), Occupations Code, are amended to read as follows:

(a) *The department [committee] shall develop and maintain an examination that may include written, oral, or practical tests. The department shall administer or arrange for the administration of the examination.*

(e) *The commission [committee] by rule shall establish the qualifications for a proctor. The rules must:*

- (1) require a proctor to be licensed in good standing as a hearing instrument fitter and dispenser;
- (2) specify the number of years a proctor must be licensed as a hearing instrument fitter and dispenser; and
- (3) specify the disciplinary actions or other actions that disqualify a person from serving as a proctor.

SECTION 1.096. Section 402.152, Occupations Code, is amended to read as follows:

Sec. 402.152. COMPLAINTS. (a) Each license or permit holder under this chapter shall at all times prominently display in the person's place of business a sign containing:

- (1) the name, mailing address, *e-mail address*, and telephone number of the *department* ~~[committee]~~; and
- (2) a statement informing consumers that a complaint against a license or permit holder may be directed to the *department* ~~[committee]~~.
- (b) Each written contract for services in this state of a *license holder* ~~[licensed hearing instrument dispenser]~~ must contain the *department's* ~~[committee's]~~ name, mailing address, *e-mail address*, and telephone number.

SECTION 1.097. The heading to Section 402.154, Occupations Code, is amended to read as follows:

Sec. 402.154. *CONFIDENTIALITY OF COMPLAINT AND DISCIPLINARY INFORMATION* ~~[INVESTIGATION; SUBPOENA]~~.

SECTION 1.098. Section 402.154, Occupations Code, is amended by amending Subsection (h), as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, and Subsection (i) to read as follows:

(h) All information and materials subpoenaed or compiled by the *department* ~~[committee]~~ in connection with a complaint and investigation are confidential and not subject to disclosure under Chapter 552, Government Code, and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release to anyone other than the *department* ~~[committee]~~ or its agents or employees who are involved in discipline of the holder of a license, except that this information may be disclosed to:

- (1) persons involved with the *department* ~~[committee]~~ in a disciplinary action against the holder of a license;
 - (2) professional licensing or disciplinary boards for the fitting and dispensing of hearing instruments in other jurisdictions;
 - (3) peer assistance programs approved by the *commission* ~~[executive commissioner]~~ under Chapter 467, Health and Safety Code;
 - (4) law enforcement agencies; and
 - (5) persons engaged in bona fide research, if all individual-identifying information has been deleted.
- (i) The filing of formal charges by the *department* ~~[committee]~~ against a holder of a license, the nature of those charges, disciplinary proceedings of the *department, commission, or executive director* ~~[committee]~~, and final disciplinary actions, including warnings and reprimands, by the *department, commission, or executive director* ~~[committee]~~ are not confidential and are subject to disclosure in accordance with Chapter 552, Government Code.

SECTION 1.099. Section 402.202(a), Occupations Code, is amended to read as follows:

(a) To engage in fitting and dispensing hearing instruments in this state a person must pass an examination required by the *department* ~~[committee]~~.

SECTION 1.100. Sections 402.203(a) and (c), Occupations Code, are amended to read as follows:

(a) An applicant for examination must:

- (1) apply to the *department in the manner and* ~~[committee]~~ on a form *prescribed* ~~[provided]~~ by the *executive director* ~~[committee]~~;
- (2) provide ~~[on the form]~~:
 - (A) *documentation* ~~[sworn evidence]~~ that the applicant is at least 18 years of ~~[has attained the]~~ age ~~[of majority]~~ and has graduated from an accredited high school or equivalent; and
 - (B) other information determined necessary by the *department* ~~[committee]~~; and

(3) pay any required fees for application and examination.

(c) The *department* [committee] may refuse to examine an applicant who has been convicted of a misdemeanor that involves moral turpitude or a felony.

SECTION 1.101. Section 402.205(b), Occupations Code, is amended to read as follows:

(b) An examination shall be conducted in writing and by other means the *department* [committee] determines adequate to ascertain the qualifications of applicants.

SECTION 1.102. Section 402.207, Occupations Code, is amended to read as follows:

Sec. 402.207. ISSUANCE OF APPRENTICE PERMIT. (a) The *department* [committee] shall issue an apprentice permit to fit and dispense hearing instruments to a temporary training permit holder who has:

- (1) passed all parts of the examination with a score of 70 percent or greater;
- (2) paid the required fees; and
- (3) met all requirements of this chapter.

(b) An apprentice permit is valid for one year. The *department* [committee] may extend the apprentice permit for an additional period not to exceed *one year* [six months].

(c) An apprentice permit holder shall work under the supervision of a *license holder* [licensed hearing instrument dispenser] for at least one year. During the apprentice year, the apprentice permit holder shall complete 20 hours of classroom continuing education as required by Section 402.303 for a license holder.

SECTION 1.103. Section 402.208, Occupations Code, is amended to read as follows:

Sec. 402.208. ISSUANCE OF LICENSE. The *department* [committee] shall issue a [hearing instrument dispenser's] license to an apprentice permit holder when the *department* [committee] has received sufficient evidence that the apprentice permit holder has met all the licensing requirements of this chapter.

SECTION 1.104. Sections 402.209(a), (c), (e), (f), and (i), Occupations Code, are amended to read as follows:

(a) A person licensed to fit and dispense hearing instruments in another state may apply for a license under this chapter by submitting a *completed* [an] application on a form prescribed by the *department* [committee].

(c) An applicant for a license under this section shall provide as part of the application:

(1) written verification that the applicant is licensed in good standing as a fitter and dispenser of hearing instruments in another state and has held the license for at least three years preceding the date of application;

(2) written verification that:

(A) the requirements to obtain a license to fit and dispense hearing instruments in the state in which the applicant is licensed include passing an examination approved by the *commission* [committee] by rule; or

(B) the applicant holds a certification from a professional organization approved by the *commission* [committee] by rule;

(3) a written statement from the licensing entity in the state in which the applicant is licensed that details any disciplinary action taken by the entity against the applicant; and

(4) a statement of the applicant's criminal history acceptable to the *department* [committee].

(e) If the department approves an application, on the next regularly scheduled examination date the applicant may take the practical section of the examination required under Section 402.202 and a written examination of Texas law administered by the department. If the applicant passes the examinations required under this section, the *department* [committee] shall issue to the applicant a license under this chapter.

(f) The department may allow an applicant under this section who satisfies all ap-

plication requirements other than the requirement under Subsection (c)(2) to take all sections of the examination required under Section 402.202. If the applicant passes the examination, the *department* ~~[committee]~~ shall issue to the applicant a license under this chapter.

(i) The *department* ~~[committee]~~ may not issue a license under this section to an applicant who is a licensed audiologist in another state. The *department* ~~[committee]~~ shall ~~inform~~ ~~[refer]~~ the applicant of ~~[to]~~ the *licensing requirements of Chapter 401* ~~[State Board of Examiners for Speech—Language Pathology and Audiology]~~.

SECTION 1.105. Section 402.210, Occupations Code, is amended to read as follows:

Sec. 402.210. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR LICENSE ISSUANCE. (a) The *department* ~~[committee]~~ shall require that an applicant for a license submit a complete and legible set of fingerprints, on a form prescribed by the *department* ~~[committee]~~, to the *department* ~~[committee]~~ or to the Department of Public Safety for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation.

(b) The *department* ~~[committee]~~ may not issue a license to a person who does not comply with the requirement of Subsection (a).

(c) The *department* ~~[committee]~~ shall conduct a criminal history check of each applicant for a license using information:

(1) provided by the individual under this section; and

(2) made available to the *department* ~~[committee]~~ by the Department of Public Safety, the Federal Bureau of Investigation, and any other criminal justice agency under Chapter 411, Government Code.

(d) The *department* ~~[on behalf of the committee]~~ may:

(1) enter into an agreement with the Department of Public Safety to administer a criminal history check required under this section; and

(2) authorize the Department of Public Safety to collect from each applicant the costs incurred by the Department of Public Safety in conducting the criminal history check.

SECTION 1.106. Section 402.251, Occupations Code, is amended to read as follows:

Sec. 402.251. TEMPORARY TRAINING PERMIT QUALIFICATIONS. (a) The *department* ~~[committee]~~ shall issue a temporary training permit to a person who:

(1) has never taken the examination administered under this chapter;

(2) possesses the qualifications required under Section 402.203(a);

(3) submits a written application on a form *prescribed* ~~[provided]~~ by the *department* ~~[committee]~~ furnishing *documentation* ~~[sworn evidence]~~ that the applicant satisfies the requirements of Subdivisions (1) and (2); and

(4) pays *any required* ~~[the temporary training permit]~~ fee.

(b) The *department* ~~[committee]~~ may issue a new temporary training permit under this section to a person on or after the 365th day after the person's previous temporary training permit expired.

SECTION 1.107. Section 402.252, Occupations Code, is amended to read as follows:

Sec. 402.252. SUPERVISION STATEMENT ~~[AFFIDAVIT]~~. (a) An application for a temporary training permit must be accompanied by the *statement* ~~[affidavit]~~ of a person licensed to fit and dispense hearing instruments under this chapter or Chapter 401, other than a person licensed under Section 401.311 or 401.312.

(b) The *statement must be on a form prescribed by the department and* ~~[affidavit must]~~ state that:

(1) *the person will supervise the applicant* ~~[if granted a temporary training permit, will be supervised by the affiant]~~ in all work done by the applicant under the temporary training permit;

(2) the *person* [affiant] will notify the *department* [committee] not later than the 10th day after the date of the applicant's termination of supervision by the *person* [affiant]; and

(3) if the *person* [affiant] is licensed under Chapter 401, the *person* [affiant] will comply with all provisions of this chapter and rules adopted under this chapter that relate to the supervision and training of a temporary training permit holder.

SECTION 1.108. Sections 402.253(b) and (c), Occupations Code, are amended to read as follows:

(b) A temporary training permit automatically expires on the first anniversary of the date of issuance unless the *department* [committee] extends the permit for an additional period not to exceed *one year* [six months].

(c) The *department* [committee] may not extend a temporary training permit more than once.

SECTION 1.109. Section 402.254(a), Occupations Code, is amended to read as follows:

(a) The *commission by rule* [committee] shall establish formal and practical education guidelines for the training of temporary training permit holders.

SECTION 1.110. Section 402.255(d), Occupations Code, is amended to read as follows:

(d) The supervisor shall maintain a log of the contact hours by practicum category on a form *prescribed* [provided] by the *department* [committee]. After the temporary training permit holder has completed 150 contact hours, the supervisor and the permit holder shall sign the form, and the form shall be notarized and mailed to the *department* [committee].

SECTION 1.111. Section 402.256, Occupations Code, is amended to read as follows:

Sec. 402.256. **AUTHORITY OF TEMPORARY TRAINING PERMIT HOLDER.** (a) A temporary training permit holder may provide routine fitting and dispensing of hearing instruments that *have* [has] been ordered by the supervisor. The supervisor is the sole judge of whether the permit holder has the qualifications necessary to perform routine fitting and dispensing. A supervisor is accountable to the *department* [committee] for the actions and misdeeds of a temporary training permit holder acting at the supervisor's discretion.

(b) A temporary training permit holder may not:

(1) own, manage, or independently operate a business that engages in the fitting or sale of hearing instruments; or

(2) advertise or otherwise represent that the permit holder holds a license *under this chapter* [as a hearing instrument dispenser].

SECTION 1.112. Sections 402.257(a), (c), and (d), Occupations Code, are amended to read as follows:

(a) On the request of a supervisor or temporary training permit holder, the *department* [committee] may approve a transfer of a permit holder from the permit holder's supervisor to another eligible supervisor before completion of the training.

(c) The *department* [committee] may approve a second transfer request before completion of the training only under exceptional circumstances. The *department* [committee] may not approve more than two transfers.

(d) If a transfer is approved, credit may be transferred at the discretion of the *department* [committee].

SECTION 1.113. Sections 402.301(a) and (f), Occupations Code, are amended to read as follows:

(a) A license under this chapter is valid for two years. The *department* [committee] shall renew the license every two years on payment of the renewal fee unless the license is suspended or revoked.

(f) The *department* [committee] may not renew a license unless the license holder

provides proof that all equipment that is used by the license holder to produce a measurement in the testing of hearing acuity has been properly calibrated or certified by a qualified technician.

SECTION 1.114. Sections 402.303(a), (b), (c), (d), and (e-1), Occupations Code, are amended to read as follows:

(a) The *commission* ~~[committee]~~ by rule shall adopt requirements for the continuing education of a license holder, including online continuing education requirements and a requirement that a license holder complete 20 hours of continuing education every two years. The *department* ~~[committee]~~ may not renew a license unless the license holder demonstrates compliance with the continuing education requirements established by the *commission by rule* ~~[committee]~~.

(b) A license holder shall provide written proof of attendance or completion of an approved course on a form prescribed by the *department* ~~[committee]~~.

(c) The *department* ~~[committee]~~ may waive compliance with the continuing education requirement for license renewal for a license holder who provides evidence of hardship or inability to meet the requirement. The waiver may be granted after review by the *department* ~~[committee]~~ on an annual basis.

(d) The *commission* ~~[committee]~~ shall adopt rules to establish reasonable requirements for continuing education sponsors and courses and to clearly define what constitutes a manufacturer or nonmanufacturer sponsor. The department shall review and approve continuing education sponsor and course applications. The department may request assistance from licensed members of the *advisory board* ~~[committee]~~ in approving a sponsor or course. The department must provide a list of approved continuing education sponsors and continuing education courses, including online courses. The list must be revised and updated periodically. Any continuing education activity must be provided by an approved sponsor. The department shall approve at least five hours of specific courses each year.

(e-1) The *department* ~~[committee]~~ must allow a license holder to report at least 10 hours of online continuing education credit hours in a single reporting period.

SECTION 1.115. Section 402.304(b), Occupations Code, is amended to read as follows:

(b) A license holder may be credited with continuing education credit hours for a published book or article written by the license holder that contributes to the license holder's professional competence. The *department* ~~[continuing education committee]~~ may grant credit hours based on the degree to which the published book or article advances knowledge regarding the fitting and dispensing of hearing instruments. A license holder may claim in a reporting period not more than five credit hours for preparation of a publication.

SECTION 1.116. Section 402.305, Occupations Code, is amended to read as follows:

Sec. 402.305. CONTINUING EDUCATION EXEMPTIONS. The *department* ~~[committee]~~ may renew the license of a license holder who does not comply with the continuing education requirements of *Section* ~~[Sections]~~ 402.303 or 402.304 if the license holder:

- (1) was licensed for the first time during the 24 months before the reporting date;
- (2) has served in the regular armed forces of the United States during part of the 24 months before the reporting date; or
- (3) submits proof from an attending physician that the license holder suffered a serious or disabling illness or physical disability that prevented compliance with the continuing education requirements during the 24 months before the reporting date.

SECTION 1.117. Section 402.306, Occupations Code, is amended to read as follows:

Sec. 402.306. DUPLICATE LICENSE. The *department* ~~[committee]~~ shall issue a duplicate license to a license holder whose license has been lost or destroyed. The *department* ~~[committee]~~ may prescribe the procedure and requirements for issuance of a duplicate license.

SECTION 1.118. Section 402.351, Occupations Code, is amended to read as follows:

Sec. 402.351. **DISPLAY OF LICENSE.** A person engaged in fitting and dispensing hearing instruments shall display the person's license in a conspicuous place in the person's principal office and, when required, shall exhibit the license to the *department* [committee] or its authorized representative.

SECTION 1.119. Section 402.353(c), Occupations Code, is amended to read as follows:

(c) The *commission* [committee] shall adopt rules necessary to enforce this section.

SECTION 1.120. Section 402.401, Occupations Code, is amended to read as follows:

Sec. 402.401. **TRIAL PERIOD.** The *commission by rule* [committee] shall establish guidelines for a 30-day trial period during which a person may cancel the purchase of a hearing instrument.

SECTION 1.121. Section 402.403, Occupations Code, is amended to read as follows:

Sec. 402.403. **WRITTEN CONTRACT.** The owner of a hearing instrument fitting and dispensing practice shall ensure that each client receives a written contract at the time of purchase of a hearing instrument that contains:

- (1) the signature of the license holder who dispensed the hearing instrument;
- (2) the printed name of the license holder who dispensed the hearing instrument;
- (3) the address of the principal office of the license holder who dispensed the hearing instrument;
- (4) the license number of the license holder who dispensed the hearing instrument;
- (5) a description of the make and model of the hearing instrument;
- (6) the amount charged for the hearing instrument;
- (7) a statement of whether the hearing instrument is new, used, or rebuilt;
- (8) notice of the 30-day trial period under Section 402.401; and
- (9) the name, mailing address, *e-mail address*, and telephone number of the *department* [committee].

SECTION 1.122. Section 402.404, Occupations Code, is amended to read as follows:

Sec. 402.404. **SURETY BONDING.** (a) A sole proprietor, partnership, corporation, or other legal entity engaged in the fitting and dispensing of hearing instruments shall file with the *department* [committee] security in a form provided by Subsection (b) in the amount of \$10,000 and conditioned on the promise to pay all:

- (1) taxes and contributions owed to the state and political subdivisions of the state by the entity; and
- (2) judgments that the entity may be required to pay for:
 - (A) negligently or improperly dispensing hearing instruments; or
 - (B) breaching a contract relating to the dispensing of hearing instruments.

(b) The security may be a bond, a cash deposit, or another negotiable security acceptable to the *department* [committee].

(c) A bond required by this section remains in effect until canceled by action of the surety, the principal, or the *department* [committee]. A person must take action on the bond not later than the third anniversary of the date the bond is canceled.

SECTION 1.123. Section 402.451(a), Occupations Code, is amended to read as follows:

(a) A person may not:

- (1) buy, sell, or fraudulently obtain a license or aid another person to do so;
- (2) alter a license with the intent to defraud;
- (3) wilfully make a false statement in an application to the *department* [committee] for a license, a temporary training permit, or the renewal of a license;
- (4) falsely impersonate a license holder;

(5) engage in the fitting and dispensing of hearing instruments when the person's license is suspended or revoked;

(6) dispense or fit a hearing instrument on a person who has ordered the hearing instrument or device by mail unless the person dispensing or fitting is a license holder under this chapter or under Chapter 401; or

(7) sell a hearing instrument by mail.

SECTION 1.124. Section 402.501, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 402.501. GROUNDS FOR LICENSE DENIAL AND DISCIPLINARY ACTION. The *commission or executive director* [committee] may refuse to issue or renew a license, revoke or suspend a license or permit, place on probation a person whose license or permit has been suspended, or reprimand a license or permit holder who:

(1) makes a material misstatement in furnishing information to the *department* [committee] or to another state or federal agency;

(2) violates this chapter or a rule adopted under this chapter;

(3) is convicted of a felony or misdemeanor that includes dishonesty as an essential element or of a crime directly related to the practice of fitting and dispensing hearing instruments;

(4) makes a misrepresentation for the purpose of obtaining or renewing a license, including falsifying the educational requirements under this chapter;

(5) is professionally incompetent or engages in malpractice or dishonorable, unethical, or unprofessional conduct that is likely to deceive, defraud, or harm the public;

(6) aids or assists another person in violating this chapter or a rule adopted under this chapter;

(7) does not provide information in response to a written request made by the department within 60 days;

(8) directly or indirectly knowingly employs, hires, procures, or induces a person not licensed under this chapter to fit and dispense hearing instruments unless the person is exempt under this chapter;

(9) aids a person not licensed under this chapter in the fitting or dispensing of hearing instruments unless the person is exempt under this chapter;

(10) is habitually intoxicated or addicted to a controlled substance;

(11) directly or indirectly gives to or receives from a person a fee, commission, rebate, or other form of compensation for a service not actually provided;

(12) violates a term of probation;

(13) wilfully makes or files a false record or report;

(14) has a physical illness that results in the inability to practice the profession with reasonable judgment, skill, or safety, including the deterioration or loss of motor skills through aging;

(15) solicits a service by advertising that is false or misleading;

(16) participates in subterfuge or misrepresentation in the fitting or dispensing of a hearing instrument;

(17) knowingly advertises for sale a model or type of hearing instrument that cannot be purchased;

(18) falsely represents that the service of a licensed physician or other health professional will be used or made available in the fitting, adjustment, maintenance, or repair of a hearing instrument;

(19) falsely uses the term "doctor," "audiologist," "clinic," "clinical audiologist," "state licensed," "state certified," "licensed hearing instrument dispenser," "board certified hearing instrument specialist," "hearing instrument specialist," or "certified

hearing aid audiologist,” or uses any other term, abbreviation, or symbol that falsely gives the impression that:

(A) a service is being provided by a person who is licensed or has been awarded a degree or title; or

(B) the person providing a service has been recommended by a government agency or health provider;

(20) advertises a manufacturer’s product or uses a manufacturer’s name or trademark in a way that implies a relationship between a license or permit holder and a manufacturer that does not exist;

(21) directly or indirectly gives or offers to give, or permits or causes to be given, money or another thing of value to a person who advises others in a professional capacity as an inducement to influence the person to influence the others to:

(A) purchase or contract to purchase products sold or offered for sale by the license or permit holder; or

(B) refrain from purchasing or contracting to purchase products sold or offered for sale by another license or permit holder under this chapter;

(22) with fraudulent intent fits and dispenses a hearing instrument under any name, including a false name or alias;

(23) does not adequately provide for the service or repair of a hearing instrument fitted and sold by the license holder; or

(24) violates a regulation of the federal Food and Drug Administration or the Federal Trade Commission relating to hearing instruments.

SECTION 1.125. The heading to Section 402.551, Occupations Code, is amended to read as follows:

Sec. 402.551. *AMOUNT OF ADMINISTRATIVE PENALTY.*

SECTION 1.126. Section 402.551(b), Occupations Code, is amended to read as follows:

(b) The amount of *an [the] administrative penalty imposed for a violation of this chapter or a rule adopted or order issued under this chapter* may not exceed \$250 plus costs for the first violation and \$1,000 plus costs for each subsequent violation.

SECTION 1.127. Section 402.5521, Occupations Code, is amended to read as follows:

Sec. 402.5521. ~~[COMMITTEE-ORDERED]~~ *REFUND FOR HEARING INSTRUMENT.* The *commission or executive director [committee]* may order a license holder to pay a refund to a consumer who returns a hearing instrument during the 30-day trial period required by rules adopted under Section 402.1021.

SECTION 1.128. Section 402.553(a), Occupations Code, is amended to read as follows:

(a) A person who violates this chapter or a rule *adopted or order issued [adopted by the committee]* under this chapter is liable for a civil penalty not to exceed \$5,000 a day.

SECTION 1.129. Section 403.001, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended by adding Subdivision (1) and amending Subdivisions (2) and (3) to read as follows:

(1) “*Commission*” means the *Texas Commission of Licensing and Regulation*.

(2) “*Department*” means the *Texas Department of Licensing and Regulation [State Health Services]*.

(3) “*Executive director*” ~~[commissioner]~~ means the *executive director [commissioner]* of the *department [Health and Human Services Commission]*.

SECTION 1.130. Section 403.051, Occupations Code, is amended to read as follows:

Sec. 403.051. *ADVISORY COMMITTEE.* The department shall appoint an advisory committee *to provide advice and recommendations to [advise] the department on technical matters relevant to the administration of [in administering] this chapter.*

SECTION 1.131. Subchapter B, Chapter 403, Occupations Code, is amended by add-

ing Section 403.0511 to read as follows:

Sec. 403.0511. GENERAL POWERS AND DUTIES. The executive director shall administer and enforce this chapter.

SECTION 1.132. Section 403.052, Occupations Code, is amended to read as follows:

Sec. 403.052. *STANDARDS OF ETHICAL PRACTICE [RULES]. The commission [executive commissioner] shall adopt rules [necessary to administer and enforce this chapter, including rules] that establish standards of ethical practice.*

SECTION 1.133. Section 403.103(a), Occupations Code, is amended to read as follows:

(a) A license applicant must apply to the department on a form and in the manner prescribed by the executive director [the department prescribes].

SECTION 1.134. The heading to Section 403.107, Occupations Code, is amended to read as follows:

Sec. 403.107. EXAMINATION[; RULES].

SECTION 1.135. Section 403.107(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) To obtain a license, an applicant must:

(1) pass a written examination approved by the department under Subsection (b); and

(2) pay the required fees [set by the executive commissioner by rule].

SECTION 1.136. Sections 403.152(a) and (b), Occupations Code, are amended to read as follows:

(a) A license holder's license may not be renewed unless the license holder meets the continuing education requirements established by the commission by rule [executive commissioner].

(b) The commission [executive commissioner], in consultation with the advisory committee, shall establish the continuing education requirements in a manner that allows a license holder to comply without an extended absence from the license holder's county of residence.

SECTION 1.137. The heading to Subchapter E, Chapter 403, Occupations Code, is amended to read as follows:

SUBCHAPTER E. LICENSE DENIAL; [COMPLAINT AND] DISCIPLINARY PROCEDURES

SECTION 1.138. Section 403.202, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 403.202. PROHIBITED ACTIONS. A license holder may not:

(1) obtain a license by means of fraud, misrepresentation, or concealment of a material fact;

(2) sell, barter, or offer to sell or barter a license; or

(3) engage in unprofessional conduct that endangers or is likely to endanger the health, welfare, or safety of the public as defined by commission [department] rule.

SECTION 1.139. Section 403.203, Occupations Code, is amended to read as follows:

Sec. 403.203. GROUNDS FOR DISCIPLINARY ACTION. If a license holder violates this chapter or a rule or code of ethics adopted by the commission [executive commissioner], the commission or executive director [department] shall:

(1) revoke or suspend the license;

(2) place on probation the person if the person's license has been suspended;

(3) reprimand the license holder; or

- (4) refuse to renew the license.

SECTION 1.140. Section 403.204(a), Occupations Code, is amended to read as follows:

(a) The *commission or executive director* [department] may deny a license or may suspend or revoke a license if the applicant or license holder has been convicted of a misdemeanor involving moral turpitude or a felony. The *commission or executive director* [department] may take action authorized by this section when:

- (1) the time for appeal of the person's conviction has elapsed;
- (2) the judgment or conviction has been affirmed on appeal; or
- (3) an order granting probation is made suspending the imposition of the person's sentence, without regard to whether a subsequent order:
 - (A) allows withdrawal of a plea of guilty;
 - (B) sets aside a verdict of guilty; or
 - (C) dismisses an information or indictment.

SECTION 1.141. Section 403.207(a), Occupations Code, is amended to read as follows:

(a) The *commission* [executive commissioner], in consultation with the advisory committee, by rule shall adopt a broad schedule of sanctions for a violation of this chapter.

SECTION 1.142. Section 403.209, Occupations Code, is amended to read as follows:

Sec. 403.209. MONITORING OF LICENSE HOLDER. (a) The *commission* [executive commissioner] by rule shall develop a system for monitoring a license holder's compliance with the requirements of this chapter.

(b) Rules adopted under this section must include procedures to:

- (1) monitor for compliance a license holder who is ordered by the *commission or executive director* [department] to perform certain acts; and
- (2) identify and monitor license holders who represent a risk to the public.

SECTION 1.143. Section 403.212, Occupations Code, is amended to read as follows:

Sec. 403.212. REPRIMAND; CONTINUING EDUCATION. (a) In addition to other disciplinary action authorized by this subchapter, the *commission or executive director* [department] may:

- (1) issue a written reprimand to a license holder who violates this chapter; or
- (2) require that a license holder who violates this chapter attend continuing education programs.

(b) The *commission or executive director* [department], in consultation with the advisory committee, may specify the number of hours of continuing education that must be completed by a license holder to fulfill the requirement of Subsection (a)(2).

SECTION 1.144. The heading to Subchapter F, Chapter 403, Occupations Code, is amended to read as follows:

SUBCHAPTER F. PENALTIES ~~AND OTHER ENFORCEMENT~~
PROCEDURES]

SECTION 1.145. Section 403.251(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) A person who violates this chapter or[;] a rule adopted [by the executive commissioner under this chapter,] or [an] order issued [adopted by the department] under this chapter is liable for a civil penalty not to exceed \$500 for each occurrence.

SECTION 1.146. Section 451.001, Occupations Code, is amended by amending Subdivision (2), amending Subdivisions (5) and (6), as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, and adding Subdivision (7) to read as follows:

- (2) "Athletic trainer" means a person who practices athletic training, is licensed by

the *department* [board], and may use the initials “LAT,” “LATC,” and “AT” to designate the person as an athletic trainer. The terms “sports trainer” and “licensed athletic trainer” are equivalent to “athletic trainer.”

(5) “*Commission*” [~~“Commissioner”~~] means the *Texas Commission of Licensing and Regulation* [commissioner of state health services].

(6) “*Department*” means the *Texas Department of Licensing and Regulation* [State Health Services].

(7) “*Executive director*” means the executive director of the department.

SECTION 1.147. Section 451.003, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 451.003. **APPLICABILITY.** This chapter does not apply to:

- (1) a physician licensed by the Texas Medical Board;
- (2) a dentist, licensed under the laws of this state, engaged in the practice of dentistry;
- (3) a licensed optometrist or therapeutic optometrist engaged in the practice of optometry or therapeutic optometry as defined by statute;
- (4) an occupational therapist engaged in the practice of occupational therapy;
- (5) a nurse engaged in the practice of nursing;
- (6) a licensed podiatrist engaged in the practice of podiatry as defined by statute;
- (7) a physical therapist engaged in the practice of physical therapy;
- (8) a registered massage therapist engaged in the practice of massage therapy;
- (9) a commissioned or contract physician, physical therapist, or physical therapist assistant in the United States Army, Navy, Air Force, or Public Health Service; or
- (10) an athletic trainer who does not live in this state, who is licensed, registered, or certified by an authority recognized by the *department* [board], and who provides athletic training in this state for a period determined by the *department* [board].

SECTION 1.148. Section 451.051(b), Occupations Code, is amended to read as follows:

(b) The board consists of five members appointed by the *presiding officer of the commission* [governor] with the *approval* [advice and consent] of the *commission* [senate] as follows:

- (1) three members who are athletic trainers; and
- (2) two members who represent the public.

SECTION 1.149. Subchapter B, Chapter 451, Occupations Code, is amended by adding Section 451.0521 to read as follows:

Sec. 451.0521. **DUTIES OF BOARD.** *The board shall provide advice and recommendations to the department on technical matters relevant to the administration of this chapter.*

SECTION 1.150. Section 451.053(b), Occupations Code, is amended to read as follows:

(b) If a vacancy occurs on the board, the *presiding officer of the commission*, with the *commission’s approval*, [governor] shall appoint a *replacement who meets the qualifications for the vacant position* [successor] to serve for the unexpired portion of the term.

SECTION 1.151. Section 451.055, Occupations Code, is amended to read as follows:

Sec. 451.055. **PRESIDING OFFICER** [OFFICERS]. [~~(a)~~] The *presiding officer of the commission* [governor] shall designate a member of the board [as the board’s *presiding officer*] to serve as the *presiding officer of the board* for [in that capacity at the will of the governor. The board shall elect an assistant presiding officer and secretary-treasurer from its members. The assistant presiding officer and secretary-treasurer serve] a one-year term. *The presiding officer of the board may vote on any matter before the board.*

SECTION 1.152. Section 451.056, Occupations Code, is amended to read as follows:

Sec. 451.056. MEETINGS. The board shall meet at ~~[least twice a year. The board may hold additional meetings on]~~ the call of the presiding officer *of the commission or the executive director* ~~[at the written request of any three members of the board]~~.

SECTION 1.153. The heading to Subchapter C, Chapter 451, Occupations Code, is amended to read as follows:

SUBCHAPTER C. ~~[BOARD]~~ POWERS AND DUTIES

SECTION 1.154. Section 451.101, Occupations Code, is amended by amending Subsection (a) and adding Subsections (a–1) and (a–2) to read as follows:

(a) *The executive director shall administer and enforce this chapter.*

(a–1) *The department ~~[board]~~ shall:*

- (1) adopt an official seal;
- (2) prescribe the application form for a license applicant;
- (3) prescribe a suitable form for a license certificate; ~~[and]~~
- (4) prepare and conduct an examination for license applicants;
- (5) *maintain a complete record of all licensed athletic trainers; and*
- (6) *annually prepare a roster showing the names and addresses of all licensed athletic trainers.*

(a–2) *The department shall make a copy of the roster available to any person requesting it on payment of a fee established by the department in an amount sufficient to cover the cost of the roster.*

SECTION 1.155. The heading to Section 451.110, Occupations Code, is amended to read as follows:

Sec. 451.110. *CONFIDENTIALITY OF COMPLAINT AND DISCIPLINARY INFORMATION* ~~[SUBPOENAS]~~.

SECTION 1.156. Sections 451.110(h) and (i), Occupations Code, are amended to read as follows:

(h) All information and materials subpoenaed or compiled by the *department* ~~[board]~~ in connection with a complaint and investigation are confidential and not subject to disclosure under Chapter 552, Government Code, and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release to anyone other than the *department* ~~[board]~~ or its employees or agents involved in discipline of the holder of a license, except that this information may be disclosed to:

- (1) persons involved with the *department* ~~[board]~~ in a disciplinary action against the holder of a license;
- (2) athletic trainer licensing or disciplinary boards in other jurisdictions;
- (3) peer assistance programs approved by the *commission* ~~[board]~~ under Chapter 467, Health and Safety Code;
- (4) law enforcement agencies; and
- (5) persons engaged in bona fide research, if all individual-identifying information has been deleted.

(i) The filing of formal charges by the *department* ~~[board]~~ against a holder of a license, the nature of those charges, disciplinary proceedings of the *department, commission, or executive director* ~~[board]~~, and final disciplinary actions, including warnings and reprimands, by the *department, commission, or executive director* ~~[board]~~ are not confidential and are subject to disclosure in accordance with Chapter 552, Government Code.

SECTION 1.157. Section 451.152, Occupations Code, is amended to read as follows:

Sec. 451.152. LICENSE APPLICATION. An applicant for an athletic trainer license must submit to the *department* ~~[board]~~:

(1) an application *in the manner and on a form prescribed by the executive director* ~~[board]~~; and

(2) the required examination fee.

SECTION 1.158. Section 451.153, Occupations Code, is amended to read as follows:

Sec. 451.153. APPLICANT QUALIFICATIONS. (a) An applicant for an athletic trainer license must:

(1) have met the athletic training curriculum requirements of a college or university approved by the *commission* ~~[board]~~ and give proof of graduation;

(2) hold a degree or certificate in physical therapy and have completed:

(A) a basic athletic training course from an accredited college or university; and

(B) an apprenticeship described by Subsection (b); or

(3) have a degree in corrective therapy with at least a minor in physical education or health that includes a basic athletic training course and meet the apprenticeship requirement or any other requirement established by the *commission* ~~[board]~~.

(b) The apprenticeship required to be completed by an applicant consists of 720 hours completed in two years under the direct supervision of a licensed athletic trainer acceptable to the *department* ~~[board]~~. Actual working hours include a minimum of 20 hours a week during each fall semester.

SECTION 1.159. Section 451.156, Occupations Code, is amended to read as follows:

Sec. 451.156. REQUIREMENTS FOR LICENSE ISSUANCE. An applicant for an athletic trainer license is entitled to receive the license if the applicant:

(1) satisfies the requirements of Section 451.153 or 451.154;

(2) *passes* ~~[satisfactorily completes]~~ the examination *required* ~~[administered]~~ by the *department* ~~[board]~~;

(3) pays the required license fee; and

(4) has not committed an act that constitutes grounds for refusal of a license under Section 451.251.

SECTION 1.160. Section 451.157, Occupations Code, is amended to read as follows:

Sec. 451.157. TEMPORARY LICENSE. (a) The *department* ~~[board]~~ may issue a temporary license to an applicant if the applicant satisfies:

(1) the requirements of Section 451.153 or 451.154; and

(2) any other requirement established by the *commission* ~~[board]~~.

(b) The *commission* ~~[board]~~ by rule shall prescribe the time during which a temporary license is valid.

SECTION 1.161. The heading to Section 451.201, Occupations Code, is amended to read as follows:

Sec. 451.201. LICENSE EXPIRATION; *RENEWAL*.

SECTION 1.162. Section 451.201(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) A license issued under Section 451.156 expires on the second anniversary of the date of issuance *and may be renewed biennially*.

SECTION 1.163. Section 451.251(a), Occupations Code, is amended to read as follows:

(a) The *commission or executive director* ~~[board]~~ may refuse to issue a license to an applicant and shall reprimand a license holder or suspend, revoke, or refuse to renew a person's license if the person:

(1) has been convicted of a misdemeanor involving moral turpitude or a felony;

(2) obtained the license by fraud or deceit;

(3) violated or conspired to violate this chapter or a rule adopted under this chapter;

or

(4) provided services outside the scope of practice of athletic training.

SECTION 1.164. The heading to Section 451.351, Occupations Code, is amended to read as follows:

Sec. 451.351. *AMOUNT ~~IMPOSITION~~ OF ADMINISTRATIVE PENALTY.*

SECTION 1.165. Section 451.351(c), Occupations Code, is amended to read as follows:

(c) The amount of an *administrative* ~~the~~ penalty imposed for a violation of this chapter or a rule adopted or order issued under this chapter may not exceed \$500 for each violation, and each day a violation continues or occurs is a separate violation for purposes of imposing a penalty. The total amount of the penalty assessed for a violation continuing or occurring on separate days under this subsection may not exceed \$2,500.

SECTION 1.166. Section 605.002, Occupations Code, is amended by amending Subdivision (1), amending Subdivision (5), as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, and adding Subdivisions (2) and (5-a) to read as follows:

(1) “Advisory board” ~~“Board”~~ means the *Orthotists and Prosthetists Advisory* ~~[Texas] Board [of Orthotics and Prosthetics]~~.

(2) “Commission” means the *Texas Commission of Licensing and Regulation*.

(5) “Department” means the *Texas Department of Licensing and Regulation* ~~[State Health Services]~~.

(5-a) “Executive director” means the executive director of the department.

SECTION 1.167. The heading to Subchapter B, Chapter 605, Occupations Code, is amended to read as follows:

SUBCHAPTER B. *ORTHOTISTS AND PROSTHETISTS ADVISORY*
~~[TEXAS] BOARD [OF ORTHOTICS AND PROSTHETICS]~~

SECTION 1.168. Section 605.052, Occupations Code, is amended to read as follows:

Sec. 605.052. *ADVISORY ~~APPOINTMENT OF~~ BOARD*[:] *MEMBERSHIP.* (a) The advisory board consists of seven members appointed by the *presiding officer of the commission* ~~[governor]~~ with the approval ~~[advice and consent]~~ of the *commission* ~~[senate]~~ as follows:

(1) *two* ~~one~~ licensed orthotist *members* ~~member~~ who each have ~~has~~ practiced orthotics for the five years preceding the date of appointment;

(2) *two* ~~one~~ licensed prosthetist *members* ~~member~~ who each have ~~has~~ practiced prosthetics for the five years preceding the date of appointment;

(3) one licensed prosthetist orthotist member who has practiced orthotics and prosthetics for the five years preceding the date of appointment;

(4) one member who is a representative of the public who uses an orthosis; and

(5) one member who is a representative of the public who uses a prosthesis~~;~~ and

~~[(6) two members who are representatives of the public who do not use an orthosis or prosthesis].~~

(b) Appointments to the *advisory* board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

SECTION 1.169. Subchapter B, Chapter 605, Occupations Code, is amended by adding Section 605.0521 to read as follows:

Sec. 605.0521. DUTIES OF ADVISORY BOARD. The advisory board shall provide advice and recommendations to the department on technical matters relevant to the administration of this chapter.

SECTION 1.170. Section 605.055, Occupations Code, is amended to read as follows:

Sec. 605.055. *TERMS; VACANCY.* (a) Members of the *advisory* board serve stag-

gered six-year terms. The terms of two or three members expire on February 1 of each odd-numbered year.

(b) If a vacancy occurs during a member's term, the *presiding officer of the commission, with the commission's approval*, ~~[governor]~~ shall appoint a *replacement who meets the qualifications for the vacant position* ~~[person]~~ to serve for the remainder of the term.

SECTION 1.171. Section 605.056, Occupations Code, is amended to read as follows:

Sec. 605.056. *PRESIDING OFFICER [OFFICERS]*. The members of the *advisory board* shall elect from the *advisory board's membership* a *presiding officer of the advisory board to serve for a term of one year. The presiding officer of the advisory board may vote on any matter before the advisory board* ~~[, a secretary, and other officers as required to conduct the board's business]~~.

SECTION 1.172. Section 605.059, Occupations Code, is amended by amending Subsection (b) and adding Subsections (c) and (d) to read as follows:

(b) *The advisory [A special meeting of the] board shall meet at the call of [be called by] the presiding officer of the commission or the executive director [or on the written request of any three members]*.

(c) *Four or more advisory board members may call a special meeting of the advisory board by providing written notice not less than 14 days before the date of the meeting to:*

- (1) *the presiding officer of the commission;*
- (2) *the executive director; and*
- (3) *all other members of the advisory board.*

(d) *Not more than two special meetings of the advisory board may be called under Subsection (c) in a calendar year.*

SECTION 1.173. Section 605.151, Occupations Code, is amended to read as follows:

Sec. 605.151. *GENERAL POWERS AND DUTIES [OF BOARD]*. The *executive director shall administer and enforce this chapter* ~~[board may]~~:

- ~~[(1) investigate complaints;~~
- ~~[(2) issue, suspend, deny, and revoke licenses;~~
- ~~[(3) reprimand license holders and place license holders on probation;~~
- ~~[(4) in connection with a hearing under Section 605.353, issue subpoenas;~~
- ~~[(5) hold hearings; and~~
- ~~[(6) use personnel, facilities, furniture, equipment, and other items supplied by the department to administer this chapter].~~

SECTION 1.174. Section 605.155, Occupations Code, is amended to read as follows:

Sec. 605.155. *EXAMINATIONS*. The *department [board]* must approve any examination required for a license under this chapter. Each examination shall be offered at least once each year.

SECTION 1.175. The heading to Subchapter E, Chapter 605, Occupations Code, is amended to read as follows:

SUBCHAPTER E. ~~[PUBLIC INTEREST INFORMATION AND]~~ COMPLAINT INFORMATION ~~[PROCEDURES]~~

SECTION 1.176. The heading to Section 605.2021, Occupations Code, is amended to read as follows:

Sec. 605.2021. *CONFIDENTIALITY OF COMPLAINT AND DISCIPLINARY INFORMATION [SUBPOENAS]*.

SECTION 1.177. Sections 605.2021(h) and (i), Occupations Code, are amended to read as follows:

(h) All information and materials subpoenaed or compiled by the *department [board]*

in connection with a complaint and investigation are confidential and not subject to disclosure under Chapter 552, Government Code, and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release to anyone other than the *department* [board] or its employees or agents involved in discipline of the holder of a license, except that this information may be disclosed to:

- (1) persons involved with the *department* [board] in a disciplinary action against the holder of a license;
 - (2) professional orthotist or prosthetist disciplinary boards in other jurisdictions;
 - (3) peer assistance programs approved by the *commission* [board] under Chapter 467, Health and Safety Code;
 - (4) law enforcement agencies; and
 - (5) persons engaged in bona fide research, if all individual-identifying information has been deleted.
- (i) The filing of formal charges by the *department* [board] against a holder of a license, the nature of those charges, disciplinary proceedings of the *department*, *commission*, or *executive director* [board], and final disciplinary actions, including warnings and reprimands, by the *department*, *commission*, or *executive director* [board] are not confidential and are subject to disclosure in accordance with Chapter 552, Government Code.

SECTION 1.178. Section 605.251, Occupations Code, is amended to read as follows:

Sec. 605.251. LICENSE REQUIRED. A person may not practice, attempt to practice, or offer to practice orthotics or prosthetics, act as an assistant to a person who practices orthotics or prosthetics, or in any way hold the person out as being able to practice orthotics or prosthetics unless the person holds a license [issued by the board] under this chapter.

SECTION 1.179. Section 605.252, Occupations Code, is amended to read as follows:

Sec. 605.252. LICENSE ELIGIBILITY. (a) To be eligible for a license to practice orthotics or prosthetics in this state, a person must:

- (1) ~~submit an [file a written]~~ application *in the manner and* [with the board] on the form prescribed by the *executive director* [board];
 - (2) pay the nonrefundable application fee;
 - (3) be a resident of this state;
 - (4) have completed formal training, including the required hours of classroom education and clinical practice, in an area of study the *commission* [board] by rule determines to be necessary and appropriate;
 - (5) have completed a clinical residency in the professional area for which a license is sought that complies with the standards, guidelines, or procedures established by the *department* [board] for a clinical residency that is offered in this state or another state; and
 - (6) have passed each written and practical examination approved and required by the *department* [board].
- (b) The requirements for a license established by *commission* [board] rule must include the requirement that the applicant hold:
- (1) a bachelor's or graduate degree in orthotics and prosthetics from:
 - (A) an education program recognized and accredited by the Commission on Accreditation of Allied Health Education Programs that is offered at an institution of higher education; or
 - (B) a practitioner education program that has education standards that are equivalent to or exceed the standards adopted by the Commission on Accreditation of Allied Health Education Programs; or
 - (2) a bachelor's degree in another subject and an orthotic or prosthetic certificate issued by a practitioner education program:

(A) recognized and accredited by the Commission on Accreditation of Allied Health Education Programs; or

(B) that has education standards that are equivalent to or exceed the standards adopted by the Commission on Accreditation of Allied Health Education Programs.

(c) To meet the clinical residency requirements for a license, the applicant must complete a professional clinical residency that meets the requirements established by *commission* [board] rule and is conducted under the direct supervision of a licensed orthotist, licensed prosthetist, or a licensed prosthetist orthotist in the discipline for which licensure is sought. The clinical residency requirements adopted by the *commission* [board] must be equivalent to or exceed the standards set by the National Commission on Orthotic and Prosthetic Education.

(d) The *department* [board] may accept as a substitute for the examination requirement proof that the license applicant holds a license in a state that has licensing requirements that are equal to or exceed the requirements of this chapter.

SECTION 1.180. Sections 605.254(a) and (c), Occupations Code, are amended to read as follows:

(a) A person is entitled to an exemption from the license requirements established [by the board] under Section 605.252 if the person is a resident of this state who{

~~[(1) applies for the exemption not later than the 181st day after the date on which the board's initial rules are finally adopted and;~~

~~[(A) has provided comprehensive orthotic or prosthetic care for at least three years before the date of the application, including practicing orthotics or prosthetics in this state for the year preceding that date; or~~

~~[(B) has provided comprehensive orthotic and prosthetic care for at least six years, including practicing orthotics and prosthetics in this state for the year preceding the application date; or~~

~~[(2) presents evidence satisfactory to the department [board] that the person possesses unique qualifications to practice orthotics, prosthetics, or orthotics and prosthetics.~~

(c) The *department* [board] shall issue a license to a person who is determined to be eligible for a license under Subsection (a) [or (b)]. A person to whom a license is issued under this subsection is entitled to the same license privileges as if the person met the educational and vocational requirements of Section 605.252. The license holder is subject to the license renewal requirements established by the *commission* [board], other than the academic, clinical training, and examination requirements, which the *commission* [board] may not impose as a condition of the person's license.

SECTION 1.181. Sections 605.255(a) and (b), Occupations Code, are amended to read as follows:

(a) An applicant for a license as an orthotist assistant or prosthetist assistant must:

(1) *submit an application in the manner and* ~~[file a written application with the board]~~ on a form *prescribed* ~~[provided]~~ by the *executive director* [board];

(2) pay the nonrefundable application fee *established* ~~[prescribed]~~ by the *commission by rule* [board]; and

(3) present evidence satisfactory to the *department* [board] that the applicant has completed an education program, including courses in the anatomical, biological, and physical sciences, and a clinical residency as prescribed and adopted by the *commission by rule* [board].

(b) An assistant licensed under this section may provide only ancillary patient care services, as defined by the *commission by rule* [board], in the discipline in which the assistant's supervisor is licensed under this chapter.

SECTION 1.182. Sections 605.256(a) and (b), Occupations Code, are amended to read as follows:

(a) The *department* [board] may issue a license or registration certificate under this chapter only to an individual.

(b) The *department* [board] shall issue a license in orthotics or prosthetics to an applicant who meets the requirements provided under this chapter. A license may be granted in either orthotics or prosthetics, or in both, if the person meets the requirements established by the *department* [board].

SECTION 1.183. Section 605.257, Occupations Code, is amended to read as follows:

Sec. 605.257. TEMPORARY LICENSE. (a) The *department* [board] may issue a temporary license to an individual who:

- (1) has recently become a resident of this state;
- (2) has applied for a license as an orthotist, prosthetist, or both; and
- (3) has:

(A) practiced orthotics regularly since January 1, 1996; or

(B) been licensed by the state in which the person formerly resided if that state has license requirements that are equal to or exceed the requirements of this chapter.

(b) A temporary license is valid for one year from the date issued. A temporary license may be renewed for not more than one additional year if the applicant presents evidence sufficient to the *department* [board] of good cause for renewal.

SECTION 1.184. Section 605.258(a), Occupations Code, is amended to read as follows:

(a) The *department* [board] may issue a student registration certificate to an individual who is working toward fulfilling the requirements for a license as an orthotist, prosthetist, or prosthetist orthotist and:

- (1) holds either:

(A) a bachelor's or graduate degree in orthotics and prosthetics from:

(i) an education program recognized and accredited by the Commission on Accreditation of Allied Health Education Programs that is offered at an institution of higher education; or

(ii) a practitioner education program that has education standards that are equivalent to or exceed the standards adopted by the Commission on Accreditation of Allied Health Education Programs; or

(B) a bachelor's degree in another subject and an orthotic or prosthetic certificate issued by a practitioner education program:

(i) recognized and accredited by the Commission on Accreditation of Allied Health Education Programs; or

(ii) that has education standards that are equivalent to or exceed the standards adopted by the Commission on Accreditation of Allied Health Education Programs; or

- (2) is a student who:

(A) is currently enrolled in a graduate program in this state in orthotics and prosthetics that:

(i) is recognized and accredited by the Commission on Accreditation of Allied Health Education Programs; and

(ii) incorporates a professional clinical residency that meets the requirements of rules adopted under Section 605.252(c); and

(B) submits to the *department* [board] a written certification from the graduate program in which the student is enrolled that the student has successfully completed the academic prerequisites to enter a professional clinical residency.

SECTION 1.185. Section 605.259(a), Occupations Code, is amended to read as follows:

(a) The *department* [board] may issue a registered orthotic technician or registered prosthetic technician certificate to an applicant who:

(1) *submits an [files a written] application in the manner and [with the board] on a form prescribed [provided] by the executive director [board];*

(2) *pays the nonrefundable application fee; and*

(3) *presents evidence satisfactory to the department [board] that the applicant has completed an education program and laboratory experience as prescribed by the commission by rule [board].*

SECTION 1.186. Sections 605.260(a), (b), and (c), Occupations Code, are amended to read as follows:

(a) *The commission [board] by rule shall establish requirements for the accreditation and the renewal of an accreditation of an orthotic or prosthetic facility in which orthotics or prosthetics are conducted. The department [board] may issue an accreditation only to an orthotic or prosthetic facility.*

(b) *If a person owns more than one facility, the department [board] may require only one application for the accreditation of each of the person's facilities. Each orthotic or prosthetic facility must meet the requirements established by commission rule [the board].*

(c) *An orthotic or prosthetic facility must be under the on-site direction of an orthotist or prosthetist licensed by the department [board] in the discipline for which accreditation is sought.*

SECTION 1.187. Section 605.261, Occupations Code, is amended to read as follows:

Sec. 605.261. CONTINUING EDUCATION. (a) *The commission [board] shall:*

(1) *adopt rules that require a license holder to participate in an approved continuing education program to renew a license issued under this chapter; and*

(2) *prepare or approve continuing education programs for license holders.*

(b) *To renew a license under this chapter, an applicant must submit to the department [board] evidence of satisfactory completion of the continuing education requirements required by the commission [board].*

(c) *The department [board] shall notify a license holder who has failed to comply with the [board's] continuing education requirements of the license holder's failure to comply and that failure to obtain the required continuing education before the expiration of three months after the date the notice is given constitutes grounds for the commission or executive director [board] to suspend or revoke the license holder's license.*

SECTION 1.188. Section 605.353, Occupations Code, is amended to read as follows:

Sec. 605.353. DISCIPLINARY ACTIONS. (a) *After notice and opportunity for a hearing, the commission or executive director [board] may revoke, suspend, or refuse to renew a license issued under this chapter on a finding that:*

(1) *the license was obtained by fraud, misrepresentation, or concealment of a material fact;*

(2) *the person engaged in fraud or deceit in connection with services provided by the person;*

(3) *the person engaged in unprofessional or unethical conduct;*

(4) *the person engaged in gross negligence or malpractice; or*

(5) *the person violated this chapter or a rule adopted under this chapter.*

(b) *The commission or executive director [board] may reinstate a license revoked under Subsection (a) after the first anniversary of the date of the revocation on terms the commission or executive director [board] determines to be necessary.*

SECTION 1.189. Section 605.354(c), Occupations Code, is amended to read as follows:

(c) *The attorney general shall bring an action in the name of the state at the department's [board's] request to collect a civil penalty under this section.*

SECTION 1.190. Section 605.402(a), Occupations Code, is amended to read as follows:

(a) The amount of *an* ~~[the]~~ administrative penalty *imposed for a violation of this chapter or a rule adopted or order issued under this chapter* may not be less than \$50 or more than \$5,000 for each violation. Each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty.

SECTION 1.191. Section 701.002, Occupations Code, is amended by amending Subdivisions (1), (2), and (4) and adding Subdivision (1-a) to read as follows:

(1) "Advisory board" means the *Dietitians Advisory Board*.

(1-a) "Commission" ~~["Commissioner"]~~ means the *Texas Commission of Licensing and Regulation* ~~[commissioner of state health services]~~.

(2) "Department" means the *Texas Department of Licensing and Regulation* ~~[State Health Services]~~.

(4) "Executive director" ~~["Dietitians board"]~~ means the *executive director of the department* ~~[Texas State Board of Examiners of Dietitians]~~.

SECTION 1.192. The heading to Subchapter B, Chapter 701, Occupations Code, is amended to read as follows:

SUBCHAPTER B. ~~[TEXAS STATE BOARD OF EXAMINERS OF]~~
DIETITIANS ADVISORY BOARD

SECTION 1.193. Section 701.051, Occupations Code, is amended to read as follows:

Sec. 701.051. DIETITIANS ADVISORY BOARD MEMBERSHIP. (a) The *advisory board* ~~[Texas State Board of Examiners of Dietitians]~~ consists of nine members appointed by the *presiding officer of the commission* ~~[governor]~~ with the *approval* ~~[advice and consent]~~ of the *commission* ~~[senate]~~ as follows:

(1) six licensed dietitian members, each of whom has been licensed under this chapter for not less than three years before the member's date of appointment; and

(2) three members who represent the public.

(b) In appointing dietitian members to the *advisory* ~~[dietitians]~~ board, the *presiding officer of the commission* ~~[governor]~~ shall attempt to maintain balanced representation among the following primary areas of expertise included in the professional discipline of dietetics:

(1) clinical;

(2) educational;

(3) management;

(4) consultation; and

(5) community.

(c) Appointments to the *advisory* ~~[dietitians]~~ board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

SECTION 1.194. Subchapter B, Chapter 701, Occupations Code, is amended by adding Section 701.0511 to read as follows:

Sec. 701.0511. DUTIES OF ADVISORY BOARD. The advisory board shall provide advice and recommendations to the department on technical matters relevant to the administration of this chapter.

SECTION 1.195. Section 701.054, Occupations Code, is amended to read as follows:

Sec. 701.054. TERMS; VACANCIES. (a) Members of the *advisory* ~~[dietitians]~~ board serve staggered six-year terms. The terms of *three* ~~[two]~~ members begin on September 1 of each odd-numbered year.

(b) *If a vacancy occurs during a member's term, the presiding officer of the commission, with the commission's approval, shall appoint a replacement who meets the qualifications for the vacant position to serve for the remainder of the term.*

SECTION 1.196. Section 701.057, Occupations Code, is amended to read as follows:

Sec. 701.057. *PRESIDING OFFICER* ~~[OFFICERS]~~. ~~[(a)]~~ The *presiding officer of the commission* ~~[governor]~~ shall designate a member of the *advisory* ~~[dietitians]~~ board as the *presiding officer of the advisory board to serve for a term of one year* ~~[in that capacity at the pleasure of the governor]~~. *The presiding officer of the advisory board may vote on any matter before the advisory board.*

~~[(b) Not later than the 30th day after the date the governor appoints new board members, the dietitians board shall meet to elect an assistant presiding officer, who holds office according to board rules.]~~

SECTION 1.197. Section 701.058, Occupations Code, is amended to read as follows:

Sec. 701.058. *MEETINGS*. The *advisory* ~~[dietitians]~~ board shall *meet at the call of the presiding officer of the commission or the executive director* ~~[hold at least two regular meetings each year as provided by board rules]~~.

SECTION 1.198. Section 701.151, Occupations Code, is amended to read as follows:

Sec. 701.151. *GENERAL POWERS AND DUTIES* ~~[OF DIETITIANS BOARD]~~.
(a) *The executive director shall administer and enforce this chapter.*

(b) *The department* ~~[dietitians board]~~ shall:

- (1) adopt an official seal;
- (2) adopt and publish a code of ethics;
- (3) establish the qualifications and fitness of applicants for licenses, including renewed and reciprocal licenses;
- (4) revoke, suspend, or deny a license, probate a license suspension, or reprimand a license holder for a violation of this chapter, a ~~[board]~~ rule *adopted under this chapter*, or the code of ethics; *and*
- (5) *request and receive any necessary assistance from state educational institutions or other state agencies.* ~~[spend money necessary to properly administer the board's duties; and~~

~~[(6) establish reasonable and necessary fees to administer this chapter].~~

SECTION 1.199. Subchapter D, Chapter 701, Occupations Code, is amended by adding Section 701.1511 to read as follows:

Sec. 701.1511. *REGISTRY*. *The department shall prepare a registry of licensed dietitians and provisional licensed dietitians and make the registry available to the public, license holders, and appropriate state agencies.*

SECTION 1.200. Section 701.154, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 701.154. *AMOUNT OF FEES*. *The commission* ~~[(a) After consulting the department, the dietitians board by rule shall set fees in amounts reasonable and necessary to cover the cost of administering this chapter. The fees for issuing or renewing a license must be in amounts designed to allow the department and the dietitians board to recover from the license holders all of the direct and indirect costs to the department and to the dietitians board in administering and enforcing this chapter.~~

~~[(b) The dietitians board]~~ may not set a fee that existed on September 1, 1993, in an amount that is less than the amount of that fee on that date.

SECTION 1.201. Section 701.155, Occupations Code, is amended to read as follows:

Sec. 701.155. *SEAL*. (a) *The commission* ~~[dietitians board]~~ by rule may require a license holder to:

- (1) obtain a seal authorized by the *department* ~~[board]~~ bearing the license holder's name and the legend "Licensed Dietitian"; and
 - (2) affix the seal to formal documentation of nutrition services provided by the license holder, as determined necessary and appropriate by the *department* ~~[board]~~.
- (b) If the *commission* ~~[dietitians board]~~ adopts rules under Subsection (a), the rules

must authorize a license holder to comply with Subsection (a)(2) by maintaining a facsimile of the license holder's seal on file at the location where services are provided if:

(1) the services are provided:

(A) in a facility licensed under the Health and Safety Code;

(B) on behalf of a local, state, or federal government agency; or

(C) under other circumstances determined reasonable and necessary by the *department* [board]; and

(2) the facsimile is maintained on file at all times during which the services are provided.

SECTION 1.202. The heading to Subchapter E, Chapter 701, Occupations Code, is amended to read as follows:

SUBCHAPTER E. ~~[PUBLIC INTEREST INFORMATION AND]~~ COMPLAINT
PROCEDURES

SECTION 1.203. The heading to Section 701.2041, Occupations Code, is amended to read as follows:

Sec. 701.2041. *CONFIDENTIALITY OF COMPLAINT AND DISCIPLINARY INFORMATION* [SUBPOENAS].

SECTION 1.204. Sections 701.2041(h) and (i), Occupations Code, are amended to read as follows:

(h) All information and materials subpoenaed or compiled by the *department* [dietitians board] in connection with a complaint and investigation are confidential and not subject to disclosure under Chapter 552, Government Code, and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release to anyone other than the *department* [board] or its employees or agents involved in discipline of the holder of a license, except that this information may be disclosed to:

(1) persons involved with the *department* [board] in a disciplinary action against the holder of a license;

(2) professional dietitian licensing or disciplinary boards in other jurisdictions;

(3) peer assistance programs approved by the *commission* [board] under Chapter 467, Health and Safety Code;

(4) law enforcement agencies; and

(5) persons engaged in bona fide research, if all individual-identifying information has been deleted.

(i) The filing of formal charges by the *department* [dietitians board] against a holder of a license, the nature of those charges, disciplinary proceedings of the *department*, *commission*, or *executive director* [board], and final disciplinary actions, including warnings and reprimands, by the *department*, *commission*, or *executive director* [board] are not confidential and are subject to disclosure in accordance with Chapter 552, Government Code.

SECTION 1.205. Section 701.252, Occupations Code, is amended to read as follows:

Sec. 701.252. *LICENSE APPLICATION.* (a) Each applicant for a dietitian license must submit an ~~a sworn~~ application in the manner and on a form prescribed by the executive director accompanied by the application fee.

(b) The *commission* [dietitians board shall prescribe the application form and may] by rule shall determine the information and documentation required to be submitted as part of an application ~~establish dates by which applications and fees must be received~~.

SECTION 1.206. Sections 701.253(c), (e), and (f), Occupations Code, are amended to read as follows:

(c) The *department* [dietitians board] shall prepare or approve an examination. An ex-

amination prescribed by the *department* ~~[board]~~ may be or may include an examination given by the Commission on Dietetic Registration or by a national or state testing service instead of an examination prepared by the *department* or the *department's designee* ~~[board]~~.

(e) The *department* ~~[dietitians board]~~ shall administer an examination to qualified applicants at least twice each calendar year.

(f) The *department* ~~[dietitians board]~~ shall waive the examination requirement for an applicant who, at the time of application, is a dietitian registered by the Commission on Dietetic Registration.

SECTION 1.207. Section 701.254, Occupations Code, is amended to read as follows:

Sec. 701.254. QUALIFICATIONS FOR EXAMINATION. To qualify for the licensing examination under this chapter, an applicant must:

(1) possess a baccalaureate or postbaccalaureate degree, conferred by a college or university regionally accredited at the time of conferral, with:

(A) a major course of study in human nutrition, food and nutrition, nutrition education, dietetics, or food systems management; or

(B) an equivalent major course of study approved by the *department* ~~[dietitians board]~~; and

(2) have completed an internship or preplanned, documented, professional experience program in dietetics practice of not less than 900 hours under the supervision of a licensed dietitian or a registered dietitian approved by the *department* ~~[board]~~.

SECTION 1.208. Section 701.255(a), Occupations Code, is amended to read as follows:

(a) Not later than the 45th day after the date a properly submitted and timely application is received and not later than the 30th day before the next examination date, the department shall notify an applicant in writing of the receipt and investigation of the applicant's application and any other relevant evidence relating to applicant qualifications established by *commission* ~~[dietitians board]~~ rule.

SECTION 1.209. Sections 701.2575(a) and (c), Occupations Code, are amended to read as follows:

(a) The *department* ~~[dietitians board]~~ shall develop and administer at least twice each calendar year a jurisprudence examination to determine an applicant's knowledge of this chapter, *commission* ~~[board]~~ rules *under this chapter*, and any other applicable laws of this state affecting the applicant's dietetics practice.

(c) The *commission* ~~[dietitians board]~~ shall adopt rules to implement this section, including rules related to the development and administration of the examination, examination fees, guidelines for reexamination, grading the examination, and providing notice of examination results.

SECTION 1.210. Section 701.258, Occupations Code, is amended to read as follows:

Sec. 701.258. QUALIFIED PERSON ENTITLED TO LICENSE. The *department* ~~[dietitians board]~~ shall issue a license ~~[certificate]~~ as a licensed dietitian to a person qualified for a license under this chapter.

SECTION 1.211. Sections 701.259(a), (b), (c), and (d), Occupations Code, are amended to read as follows:

(a) The *department* ~~[dietitians board]~~ may issue a license to use the title "provisional licensed dietitian" to an applicant who files an application, pays an application fee, and submits evidence of successful completion of the education requirement under Section 701.254.

(b) A provisional licensed dietitian must practice under the supervision and direction of a licensed dietitian. The supervising licensed dietitian must *be designated in* ~~[sign]~~ the applicant's initial application for a provisional license.

(c) The *department* ~~[dietitians board]~~ shall issue a license ~~[certificate]~~ as a provisional licensed dietitian to a person qualified for a provisional license under this chapter.

(d) A provisional license expires on the first anniversary of the date of issuance and, ~~if the supervising licensed dietitian signs the renewal application,~~ may be renewed annually not more than twice ~~[by complying with the renewal procedures under Section 701.301].~~

SECTION 1.212. Section 701.260, Occupations Code, is amended to read as follows:

Sec. 701.260. TEMPORARY LICENSE. (a) On receipt of an application and payment of an application fee, the *department* ~~[dietitians board]~~ may grant a temporary license to an applicant who:

(1) is licensed in good standing as a dietitian in another state that has licensing requirements that are substantially equivalent to the requirements of this chapter;

(2) has passed a national or other examination that is recognized by the *department* ~~[board]~~ and relates to dietetics; and

(3) is sponsored by a person licensed by the *department* ~~[board]~~ under this chapter with whom the temporary license holder may practice.

(b) The *department* ~~[dietitians board]~~ may waive the requirement of Subsection (a)(3) if the *department* ~~[board]~~ determines that compliance with that provision is a hardship to an applicant.

(c) A temporary license is valid until the date the *department* ~~[dietitians board]~~ approves or denies the temporary license holder's application for a license. The *department* ~~[board]~~ shall issue a license under this chapter to the holder of a temporary license if:

(1) the temporary license holder passes the competency examination required by Section 701.253;

(2) the *department* ~~[board]~~ verifies that the temporary license holder meets the academic and experience requirements for a license under this chapter; and

(3) the temporary license holder satisfies any other license requirements under this chapter.

(d) The *department* ~~[dietitians board]~~ must complete the processing of a temporary license holder's application for a license not later than the 180th day after the date the *department* ~~[board]~~ issues the temporary license. The *department* ~~[board]~~ may extend this deadline to receive pending examination results.

SECTION 1.213. Section 701.303, Occupations Code, is amended to read as follows:

Sec. 701.303. CONTINUING EDUCATION. (a) The *commission* ~~[dietitians board]~~ by rule shall establish a minimum number of hours of continuing education required for license renewal under this chapter.

(b) The *commission or department* ~~[dietitians board]~~ may assess the continuing education needs of license holders and may require license holders to attend continuing education courses specified by the *commission or department* ~~[board]~~. The *department* ~~[board]~~ shall develop a process to evaluate and approve continuing education courses.

(c) The *commission or department* ~~[dietitians board]~~ shall identify key factors for a license holder's competent performance of professional duties. The *department* ~~[board]~~ shall adopt a procedure to assess the license holder's participation in continuing education programs.

SECTION 1.214. Section 701.304, Occupations Code, is amended to read as follows:

Sec. 701.304. GROUNDS FOR REFUSING RENEWAL. The *commission or department* ~~[dietitians board]~~ may refuse to renew the license of a person who fails to pay an administrative penalty imposed under Subchapter K, unless enforcement of the penalty is stayed or a court has ordered that the administrative penalty is not owed.

SECTION 1.215. Section 701.351, Occupations Code, is amended to read as follows:

Sec. 701.351. DISPLAY OF LICENSE ~~[CERTIFICATE]~~. (a) A license holder shall display the person's license ~~[certificate]~~ in an appropriate and public manner *as prescribed by commission rule*.

(b) A license [~~certificate~~] issued by the *department* [~~dietitians board~~] is the property of the *department* [~~board~~] and shall be surrendered on demand.

SECTION 1.216. Section 701.352, Occupations Code, is amended to read as follows:

Sec. 701.352. LICENSE HOLDER INFORMATION. A license holder shall keep the department informed of the license holder's current address *as provided by commission rule*.

SECTION 1.217. Section 701.353(a), Occupations Code, is amended to read as follows:

(a) A person may not use a seal authorized by the *department* [~~dietitians board~~] unless the person holds a license issued under this chapter.

SECTION 1.218. Section 701.401, Occupations Code, is amended to read as follows:

Sec. 701.401. GROUNDS FOR DISCIPLINARY ACTION. The *commission or executive director* [~~dietitians board~~] shall refuse to renew a license, revoke or suspend a license, place on probation a person whose license has been suspended, or reprimand a license holder for a violation of this chapter, [~~or~~] a rule or code of ethics adopted *under this chapter, or an order of* [~~by~~] the *commission or executive director* [~~board~~].

SECTION 1.219. Section 701.403, Occupations Code, is amended to read as follows:

Sec. 701.403. SANCTIONS. The State Office of Administrative Hearings shall use the schedule of sanctions adopted by *the commission by* [~~dietitians board~~] rule for a sanction imposed as the result of a hearing conducted by the office.

SECTION 1.220. Section 701.502(a), Occupations Code, is amended to read as follows:

(a) The amount of *an* [~~the~~] administrative penalty *imposed for a violation of this chapter or a rule adopted or order issued under this chapter* may not be less than \$50 or more than \$5,000 for each violation. Each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty.

SECTION 1.221. Section 701.512, Occupations Code, is amended to read as follows:

Sec. 701.512. REFUND. (a) Subject to Subsection (b), the *commission or executive director* [~~dietitians board~~] may order a license holder to pay a refund to a consumer as provided in an agreement resulting from an informal settlement conference instead of or in addition to imposing an administrative penalty under this chapter.

(b) The amount of a refund ordered as provided in an agreement resulting from an informal settlement conference may not exceed the amount the consumer paid to the license holder for a service regulated by this chapter. The *commission or executive director* [~~board~~] may not require payment of other damages or estimate harm in a refund order.

SECTION 1.222. The following provisions of the Occupations Code, including provisions amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, are repealed:

- (1) Section 203.006;
- (2) Section 203.051;
- (3) Section 203.053;
- (4) Section 203.054;
- (5) Section 203.057;
- (6) Section 203.058;
- (7) Section 203.060;
- (8) Subchapter C, Chapter 203;
- (9) Section 203.151(b);
- (10) Section 203.1515;
- (11) Section 203.152(a);
- (12) Sections 203.155(a) and (c);

- (13) Section 203.156;
- (14) Section 203.158;
- (15) Section 203.159;
- (16) Section 203.160;
- (17) Section 203.161;
- (18) Subchapter E, Chapter 203;
- (19) Section 203.255(b);
- (20) Section 203.2556;
- (21) Section 203.302;
- (22) Section 203.303;
- (23) Section 203.405;
- (24) Subchapter J, Chapter 203;
- (25) Section 203.502(c);
- (26) Section 203.505(a);
- (27) Section 401.002;
- (28) Section 401.101;
- (29) Section 401.103;
- (30) Section 401.104;
- (31) Section 401.106;
- (32) Section 401.109;
- (33) Section 401.110;
- (34) Subchapter D, Chapter 401;
- (35) Section 401.201(b);
- (36) Sections 401.203(a) and (b);
- (37) Section 401.204;
- (38) Section 401.205;
- (39) Section 401.206;
- (40) Section 401.207;
- (41) Section 401.252;
- (42) Sections 401.253(b), (c), (d), and (e);
- (43) Sections 401.2535(a), (b), (c), (d), (e), (f), and (g);
- (44) Section 401.254;
- (45) Section 401.306;
- (46) Section 401.307(c);
- (47) Section 401.313;
- (48) Section 401.315;
- (49) Sections 401.352(b) and (c);
- (50) Section 401.353;
- (51) Section 401.354;
- (52) Section 401.405;
- (53) Section 401.451(b);
- (54) Section 401.452;
- (55) Section 401.4531;

- (56) Section 401.454;
- (57) Section 401.455;
- (58) Section 401.456;
- (59) Section 401.457;
- (60) Section 401.458;
- (61) Section 401.459;
- (62) Section 401.460;
- (63) Section 401.502;
- (64) Section 401.5022;
- (65) Section 401.551;
- (66) Section 401.553;
- (67) Section 401.554;
- (68) Section 401.555;
- (69) Section 401.556;
- (70) Section 401.557;
- (71) Section 401.558;
- (72) Section 401.559;
- (73) Section 401.560;
- (74) Section 401.561;
- (75) Section 402.002;
- (76) Section 402.052;
- (77) Section 402.053;
- (78) Section 402.054;
- (79) Section 402.056;
- (80) Section 402.0581;
- (81) Section 402.059;
- (82) Section 402.060;
- (83) Section 402.061;
- (84) Section 402.102;
- (85) Section 402.1022;
- (86) Sections 402.103(a) and (b);
- (87) Section 402.105;
- (88) Section 402.106;
- (89) Section 402.151;
- (90) Section 402.1511;
- (91) Section 402.153;
- (92) Sections 402.154(a), (b), (c), (d), (e), (f), and (g);
- (93) Section 402.205(d);
- (94) Section 402.206;
- (95) Sections 402.209(b) and (g);
- (96) Section 402.257(b);
- (97) Sections 402.301(b), (c), (d), and (e);
- (98) Section 402.303(f);

- (99) Section 402.354;
- (100) Section 402.452;
- (101) Section 402.502;
- (102) Section 402.503;
- (103) Section 402.504;
- (104) Section 402.505;
- (105) Section 402.506;
- (106) Sections 402.551(a) and (c);
- (107) Section 402.552;
- (108) Section 402.5522;
- (109) Section 402.553(b);
- (110) Section 403.002;
- (111) Section 403.053;
- (112) Section 403.109;
- (113) Section 403.201;
- (114) Section 403.205;
- (115) Section 403.206;
- (116) Section 403.208;
- (117) Section 403.210;
- (118) Section 403.211;
- (119) Section 403.252;
- (120) Section 451.051(a);
- (121) Section 451.0511;
- (122) Section 451.0512;
- (123) Section 451.0513;
- (124) Section 451.052;
- (125) Section 451.054;
- (126) Section 451.057;
- (127) Sections 451.101(b) and (c);
- (128) Section 451.1015;
- (129) Section 451.1016;
- (130) Section 451.102;
- (131) Section 451.103;
- (132) Section 451.1035;
- (133) Section 451.104;
- (134) Section 451.105;
- (135) Section 451.106;
- (136) Section 451.108;
- (137) Section 451.109;
- (138) Sections 451.110(a), (b), (c), (d), (e), (f), and (g);
- (139) Section 451.155;
- (140) Section 451.201(b);
- (141) Section 451.202;

- (142) Section 451.203;
- (143) Section 451.204;
- (144) Section 451.2512;
- (145) Section 451.252;
- (146) Section 451.253;
- (147) Section 451.254;
- (148) Section 451.255;
- (149) Sections 451.351(a), (b), (e), (f), (g), (h), (i), (j), (k), and (l);
- (150) Section 451.352;
- (151) Section 605.003;
- (152) Section 605.051;
- (153) Section 605.053;
- (154) Section 605.054;
- (155) Section 605.057;
- (156) Section 605.058;
- (157) Section 605.059(a);
- (158) Section 605.060;
- (159) Section 605.061;
- (160) Subchapter C, Chapter 605;
- (161) Section 605.152;
- (162) Section 605.153;
- (163) Section 605.154;
- (164) Section 605.201;
- (165) Section 605.202;
- (166) Sections 605.2021(a), (b), (c), (d), (e), (f), and (g);
- (167) Section 605.203;
- (168) Section 605.253;
- (169) Section 605.254(b);
- (170) Section 605.255(c);
- (171) Section 605.259(b);
- (172) Section 605.3535;
- (173) Section 605.355;
- (174) Section 605.401;
- (175) Section 605.403;
- (176) Section 605.404;
- (177) Section 605.405;
- (178) Section 605.406;
- (179) Section 605.407;
- (180) Section 605.408;
- (181) Section 605.409;
- (182) Section 605.410;
- (183) Section 605.411;
- (184) Section 701.003;

- (185) Section 701.052;
- (186) Section 701.053;
- (187) Section 701.055;
- (188) Section 701.056;
- (189) Section 701.059;
- (190) Subchapter C, Chapter 701;
- (191) Section 701.152;
- (192) Section 701.153;
- (193) Section 701.1535;
- (194) Section 701.156;
- (195) Section 701.157;
- (196) Section 701.159;
- (197) Section 701.160;
- (198) Section 701.161;
- (199) Section 701.201;
- (200) Section 701.202;
- (201) Section 701.203;
- (202) Section 701.204;
- (203) Sections 701.2041(a), (b), (c), (d), (e), (f), and (g);
- (204) Section 701.205;
- (205) Section 701.206;
- (206) Section 701.256;
- (207) Section 701.261;
- (208) Sections 701.301(b), (c), (d), (e), and (f);
- (209) Section 701.302;
- (210) Section 701.402;
- (211) Section 701.404;
- (212) Section 701.405;
- (213) Section 701.406;
- (214) Section 701.407;
- (215) Section 701.408;
- (216) Section 701.452;
- (217) Section 701.453;
- (218) Section 701.501;
- (219) Section 701.502(c);
- (220) Section 701.503;
- (221) Section 701.504;
- (222) Section 701.505;
- (223) Section 701.506;
- (224) Section 701.507;
- (225) Section 701.508;
- (226) Section 701.509;
- (227) Section 701.510; and

(228) Section 701.511.

PART 2. TRANSFERS DURING BIENNIUM ENDING AUGUST 31, 2019

SECTION 1.223. Sections 106.115(a), (b-1), and (b-3), Alcoholic Beverage Code, are amended to read as follows:

(a) On the placement of a minor on deferred disposition for an offense under Section 49.02, Penal Code, or under Section 106.02, 106.025, 106.04, 106.041, 106.05, or 106.07, the court shall require the defendant to attend an alcohol awareness program approved by the *Texas Department of Licensing and Regulation* [~~State Health Services~~] under this section or a drug and alcohol driving awareness program approved by the Texas Education Agency. On conviction of a minor of an offense under one or more of those sections, the court, in addition to assessing a fine as provided by those sections, shall require a defendant who has not been previously convicted of an offense under one of those sections to attend an alcohol awareness program or a drug and alcohol driving awareness program described by this subsection. If the defendant has been previously convicted once or more of an offense under one or more of those sections, the court may require the defendant to attend an alcohol awareness program or a drug and alcohol driving awareness program described by this subsection. If the defendant is younger than 18 years of age, the court may require the parent or guardian of the defendant to attend the program with the defendant. The *Texas Department of Licensing and Regulation* or *Texas Commission of Licensing and Regulation*, as appropriate [~~State Health Services~~]:

(1) is responsible for the administration of the certification of approved alcohol awareness programs;

(2) may charge a nonrefundable application fee for:

(A) initial certification of the approval; or

(B) renewal of the certification;

(3) shall adopt rules regarding alcohol awareness programs approved under this section; and

(4) shall monitor, coordinate, and provide training to a person who provides an alcohol awareness program.

(b-1) If the defendant resides in a county with a population of 75,000 or less and access to an alcohol awareness program is not readily available in the county, the court may allow the defendant to take an online alcohol awareness program if the *Texas Department of Licensing and Regulation* [~~State Health Services~~] approves online courses or require the defendant to perform not less than eight hours of community service related to alcohol abuse prevention or treatment and approved by the *Texas Department of Licensing and Regulation* [~~State Health Services~~] under Subsection (b-3) instead of attending the alcohol awareness program. Community service ordered under this subsection is in addition to community service ordered under Section 106.071(d).

(b-3) The *Texas Department of Licensing and Regulation* [~~State Health Services~~] shall create a list of community services related to alcohol abuse prevention or treatment in each county in the state to which a judge may sentence a defendant under Subsection (b-1).

SECTION 1.224. Sections 13(h) and (j), Article 42.12, Code of Criminal Procedure, are amended to read as follows:

(h) If a person convicted of an offense under Sections 49.04–49.08, Penal Code, is placed on community supervision, the judge shall require, as a condition of the community supervision, that the defendant attend and successfully complete before the 181st day after the day community supervision is granted an educational program jointly approved by the *Texas Department of Licensing and Regulation* [~~Commission on Alcohol and Drug Abuse~~], the Department of Public Safety, the Traffic Safety Section of the Texas Department of Transportation, and the community justice assistance division of the Texas Department of Criminal Justice designed to rehabilitate persons who have driven while intoxicated. The *Texas Department of Licensing and Regulation* [~~Commission on Alcohol and Drug Abuse~~] shall publish the jointly approved rules and shall moni-

tor, coordinate, and provide training to persons providing the educational programs. The Texas *Department of Licensing and Regulation* [~~Commission on Alcohol and Drug Abuse~~] is responsible for the administration of the certification of approved educational programs and may charge a nonrefundable application fee for the initial certification of approval and for renewal of a certificate. The judge may waive the educational program requirement or may grant an extension of time to successfully complete the program that expires not later than one year after the beginning date of the person's community supervision, however, if the defendant by a motion in writing shows good cause. In determining good cause, the judge may consider but is not limited to: the defendant's school and work schedule, the defendant's health, the distance that the defendant must travel to attend an educational program, and the fact that the defendant resides out of state, has no valid driver's license, or does not have access to transportation. The judge shall set out the finding of good cause for waiver in the judgment. If a defendant is required, as a condition of community supervision, to attend an educational program or if the court waives the educational program requirement, the court clerk shall immediately report that fact to the Department of Public Safety, on a form prescribed by the department, for inclusion in the person's driving record. If the court grants an extension of time in which the person may complete the program, the court clerk shall immediately report that fact to the Department of Public Safety on a form prescribed by the department. The report must include the beginning date of the person's community supervision. Upon the person's successful completion of the educational program, the person's instructor shall give notice to the Department of Public Safety for inclusion in the person's driving record and to the community supervision and corrections department. The community supervision and corrections department shall then forward the notice to the court clerk for filing. If the Department of Public Safety does not receive notice that a defendant required to complete an educational program has successfully completed the program within the period required by this section, as shown on department records, the department shall revoke the defendant's driver's license, permit, or privilege or prohibit the person from obtaining a license or permit, as provided by Sections 521.344(e) and (f), Transportation Code. The Department of Public Safety may not reinstate a license suspended under this subsection unless the person whose license was suspended makes application to the department for reinstatement of the person's license and pays to the department a reinstatement fee of \$100. The Department of Public Safety shall remit all fees collected under this subsection to the comptroller for deposit in the general revenue fund. This subsection does not apply to a defendant if a jury recommends community supervision for the defendant and also recommends that the defendant's driver's license not be suspended.

(j) The judge shall require a defendant who is punished under Section 49.09, Penal Code, as a condition of community supervision, to attend and successfully complete an educational program for repeat offenders approved by the Texas *Department of Licensing and Regulation* [~~Commission on Alcohol and Drug Abuse~~]. The Texas *Commission of Licensing and Regulation* [~~on Alcohol and Drug Abuse~~] shall adopt rules and shall monitor, coordinate, and provide training to persons providing the educational programs. The Texas *Department of Licensing and Regulation* [~~Commission on Alcohol and Drug Abuse~~] is responsible for the administration of the certification of approved educational programs and may charge a nonrefundable application fee for initial certification of approval or for renewal of the certification. The judge may waive the educational program requirement only if the defendant by a motion in writing shows good cause. In determining good cause, the judge may consider the defendant's school and work schedule, the defendant's health, the distance that the defendant must travel to attend an educational program, and whether the defendant resides out of state or does not have access to transportation. The judge shall set out the finding of good cause in the judgment. If a defendant is required, as a condition of community supervision, to attend an educational program, the court clerk shall immediately report that fact to the Department of Public Safety, on a form prescribed by the department, for inclusion in the defendant's driving record. The report must include the beginning date of the defendant's community supervision. On the defendant's successful completion of the educational program for repeat offenders, the defendant's instructor shall give notice to the Department of Public Safety for inclusion in the defendant's driving record and to the community supervision

and corrections department. The community supervision and corrections department shall then forward the notice to the court clerk for filing. If the Department of Public Safety does not receive notice that a defendant required to complete an educational program has successfully completed the program for repeat offenders within the period required by the judge, as shown on department records, the department shall revoke the defendant's driver's license, permit, or privilege or prohibit the defendant from obtaining a license or permit, as provided by Sections 521.344(e) and (f), Transportation Code.

SECTION 1.225. Section 401.501, Health and Safety Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended by amending Subdivision (1) and adding Subdivisions (1-a) and (2) to read as follows:

(1) "*Commission*" means the *Texas Commission of Licensing and Regulation*.

(1-a) "*Department*" means the *Texas Department of Licensing and Regulation [State Health Services]*.

(2) "*Executive director*" means the *executive director of the department*.

SECTION 1.226. Subchapter M, Chapter 401, Health and Safety Code, is amended by adding Section 401.5011 to read as follows:

Sec. 401.5011. GENERAL POWERS AND DUTIES. The executive director shall administer and enforce this chapter.

SECTION 1.227. Section 401.502, Health and Safety Code, is amended to read as follows:

Sec. 401.502. EXAMINATION. The commission [executive commissioner] may adopt rules to govern the development and administration of an examination for an applicant under this subchapter.

SECTION 1.228. Section 401.503, Health and Safety Code, is amended to read as follows:

Sec. 401.503. APPLICATION PROCESS. (a) An application for a certificate or license under this subchapter must be submitted in the manner and [made] on a form prescribed [and provided] by the executive director [department].

(b) The application must require an applicant to provide sworn statements relating to the applicant's education and to provide other information required by the commission [department].

SECTION 1.229. Section 401.505(a), Health and Safety Code, is amended to read as follows:

(a) An applicant for a laser hair removal professional certificate must:

(1) be certified by a recognized certifying agency, including the Society for Clinical and Medical Hair Removal or another certification entity approved by the department;

(2) meet the requirements for a senior laser hair removal technician certificate under Section 401.506; and

(3) pass an examination *required* [administered] by the department.

SECTION 1.230. The heading to Section 401.512, Health and Safety Code, is amended to read as follows:

Sec. 401.512. TERM [RENEWAL] OF CERTIFICATE OR LICENSE.

SECTION 1.231. Section 401.512(a), Health and Safety Code, is amended to read as follows:

(a) A certificate or license expires on the second anniversary of the date of issuance *and may be renewed*.

SECTION 1.232. Section 401.515(b), Health and Safety Code, is amended to read as follows:

(b) The *commission* [executive commissioner] shall adopt rules relating to the customer notice.

SECTION 1.233. Sections 401.516(a) and (b), Health and Safety Code, are amended to read as follows:

(a) A laser hair removal facility shall post a warning sign as prescribed by the *commission* ~~[department]~~ in a conspicuous location readily visible to a person entering the facility. The sign must provide a toll-free telephone number *and e-mail address* for the department and inform the customer that the customer may *contact* ~~[call]~~ the department.

(b) The *commission* ~~[executive commissioner]~~ shall adopt rules specifying the size, content, and design of the sign, with wording listing the potential dangers involved.

SECTION 1.234. Section 401.518(a), Health and Safety Code, is amended to read as follows:

(a) A laser hair removal facility operator is responsible for maintaining the laser hair removal facility's compliance with the requirements of this subchapter and *commission* ~~[department]~~ rules relating to laser and pulsed light devices.

SECTION 1.235. Section 401.519(b), Health and Safety Code, is amended to read as follows:

(b) Under the rules of the *commission* ~~[department]~~, a laser hair removal facility must document with the department the facility's contractual relationship with the consulting physician.

SECTION 1.236. Section 401.521(b), Health and Safety Code, is amended to read as follows:

(b) A person who violates Subsection (a) is practicing medicine in violation of Subtitle B, Title 3, Occupations Code, and is subject to the penalties under that subtitle and *Subchapter F, Chapter 51, Occupations Code* ~~[under Section 401.522]~~.

SECTION 1.237. The heading to Section 401.522, Health and Safety Code, is amended to read as follows:

Sec. 401.522. *AMOUNT OF ADMINISTRATIVE PENALTY* ~~[ENFORCEMENT; PENALTIES]~~.

SECTION 1.238. Section 401.522(a), Health and Safety Code, is amended to read as follows:

(a) The *amount of* ~~[department may impose]~~ an administrative penalty *imposed for a violation of this subchapter or a rule adopted or order issued* ~~[on a person who violates this subchapter or a rule adopted]~~ under this subchapter ~~[The amount of the penalty]~~ may not exceed \$5,000 for each violation.

SECTION 1.239. Section 455.001, Occupations Code, is amended by amending Subdivisions (1) and (2) and adding Subdivision (1-a) to read as follows:

(1) "*Commission*" means the Texas Commission of Licensing and Regulation.

(1-a) "*Department*" means the Texas Department of Licensing and Regulation ~~[State Health Services]~~.

(2) "*Executive director*" ~~[commissioner]~~ means the executive *director* ~~[commissioner]~~ of the *department* ~~[Health and Human Services Commission]~~.

SECTION 1.240. The heading to Subchapter B, Chapter 455, Occupations Code, is amended to read as follows:

SUBCHAPTER B. POWERS AND DUTIES ~~[OF EXECUTIVE COMMISSIONER]~~

SECTION 1.241. Section 455.053, Occupations Code, is amended to read as follows:

Sec. 455.053. *RULES REGARDING MASSAGE SCHOOLS.* Rules adopted under this chapter relating to a massage school must contain minimum standards for:

(1) the issuance, denial, renewal, suspension, revocation, or probation of a license under this chapter;

- (2) the qualifications of professional personnel;
- (3) the supervision of professional personnel;
- (4) the equipment essential to the education, health, and safety of students, massage school personnel, and the public;
- (5) the sanitary and hygienic conditions of a massage school;
- (6) the provision of massage therapy or other massage services by a massage school or student;
- (7) the maximum number of hours a student may accumulate in a massage school's internship program before the student is required to be licensed under this chapter;
- (8) the educational and clinical records kept by a massage school;
- (9) the organizational structure of a massage school, including the lines of authority and the delegation of responsibility;
- (10) fire prevention and safety in a massage school;
- (11) the massage school's curriculum and educational material;
- (12) massage school inspections; and
- (13) any other aspect of the operation of a massage school that the *commission* [~~executive commissioner~~] considers necessary to protect students, massage school personnel, or the public.

SECTION 1.242. The heading to Subchapter C, Chapter 455, Occupations Code, is amended to read as follows:

SUBCHAPTER C. POWERS AND DUTIES [~~OF DEPARTMENT~~]

SECTION 1.243. Section 455.101, Occupations Code, is amended to read as follows:

Sec. 455.101. GENERAL POWERS AND DUTIES [~~OF DEPARTMENT~~]. (a) The *executive director* [~~department~~] shall:

- [(1)] administer and enforce this chapter.
- (b) The department shall:
 - (1) [;]
 - [(2)] investigate a person who may be engaging in a practice that violates this chapter;
 - (2) [(3)] regulate the number and content of school hours provided by a massage school or a massage therapy instructor; and
 - (3) [(4)] prepare and administer a state examination under this chapter.

SECTION 1.244. Section 455.103, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 455.103. MEMORANDUM OF UNDERSTANDING REGARDING MASSAGE SCHOOLS. (a) The *commission* [~~department~~] may enter into a memorandum of understanding with the Texas Education Agency to regulate massage schools.

(b) A memorandum must:

- (1) be adopted by the *commission* [~~executive commissioner~~] by rule; and
- (2) limit the total amount of the fees charged by the department and the Texas Education Agency for licensing a massage school to an amount equal to the amount of the fees the department would charge for licensing the massage school in the absence of the memorandum.

SECTION 1.245. Section 455.151(d), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(d) The department may issue one or more types of licenses not otherwise provided for by this chapter that authorize the license holder to perform a service described by

Subsection (c). The *commission* [~~executive commissioner~~] may adopt rules governing a license issued under this subsection.

SECTION 1.246. Section 455.153, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 455.153. APPLICATION FOR LICENSE. An applicant for a license under this chapter must:

(1) submit an application *in the manner and on a form prescribed* [~~provided~~] by the *executive director* [~~department~~]; and

(2) include with the application the application fee set by the *commission* [~~executive commissioner~~] by rule.

SECTION 1.247. Sections 455.1572(c) and (e), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, are amended to read as follows:

(c) A provisional license is valid until the date the department approves or denies the provisional license holder's application for licensing. The department shall issue a license under this chapter to the provisionally licensed person if the person:

(1) is eligible for a license under Section 51.404 [~~455.1571~~]; or

(2) passes the part of the examination under Section 455.101 that relates to the applicant's knowledge and understanding of the laws and rules relating to the practice of massage therapy in this state and:

(A) the department verifies that the person meets the academic and experience requirements for licensing under this chapter; and

(B) the person satisfies any other licensing requirements under this chapter.

(e) The *commission* [~~executive commissioner~~] by rule may establish a fee for a provisional license.

SECTION 1.248. The heading to Section 455.160, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 455.160. LICENSE TERM AND RENEWAL.

SECTION 1.249. Section 455.160(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) A license issued under this chapter is valid for two years. *A license holder must renew the license biennially.* [~~The license expires unless the license holder submits an application for renewal accompanied by the renewal fee prescribed by the executive commissioner by rule or by the late fee prescribed by this section.~~]

SECTION 1.250. Sections 455.203(a) and (b), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, are amended to read as follows:

(a) A massage school must meet the minimum standards of operation established by *commission* [~~department~~] rule.

(b) An instructor must meet the minimum requirements established by *commission* [~~department~~] rule.

SECTION 1.251. Section 455.251, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 455.251. GROUNDS FOR LICENSE DENIAL OR DISCIPLINARY ACTION.

(a) The *commission or executive director* [~~department~~] may refuse to issue a license to a person and shall suspend, revoke, or refuse to renew the license of a person or shall reprimand a person licensed under this chapter if the person:

(1) obtains a license by fraud, misrepresentation, or concealment of material facts;

(2) sells, barter, or offers to sell or barter a license;

(3) violates a rule adopted by the *commission* [~~executive commissioner~~] under this chapter;

(4) engages in unprofessional conduct as defined by *commission* ~~[department]~~ rule that endangers or is likely to endanger the health, welfare, or safety of the public;

(5) violates an order or ordinance adopted by a political subdivision under Chapter 243, Local Government Code; or

(6) violates this chapter.

(b) The *commission or executive director* ~~[department]~~ shall revoke the license of a person licensed as a massage therapist or massage therapy instructor if:

(1) the person is convicted of, enters a plea of nolo contendere or guilty to, or receives deferred adjudication for an offense involving prostitution or another sexual offense; or

(2) the *commission or executive director* ~~[department]~~ determines the person has practiced or administered massage therapy at or for a sexually oriented business.

(c) The *commission or executive director* ~~[department]~~ shall revoke the license of a person licensed as a massage school or massage establishment if the *commission or executive director* ~~[department]~~ determines that:

(1) the school or establishment is a sexually oriented business; or

(2) an offense involving prostitution or another sexual offense that resulted in a conviction for the offense, a plea of nolo contendere or guilty to the offense, or a grant of deferred adjudication for the offense occurred on the premises of the school or establishment.

SECTION 1.252. The heading to Section 455.302, Occupations Code, is amended to read as follows:

Sec. 455.302. AMOUNT OF ADMINISTRATIVE PENALTY.

SECTION 1.253. Section 455.302(a), Occupations Code, is amended to read as follows:

(a) The amount of an administrative penalty *imposed for a violation of this chapter or a rule adopted or order issued under this chapter* may not exceed \$1,000 for each violation. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.

SECTION 1.254. Section 1952.001, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended by adding Subdivision (2-a) and amending Subdivisions (3) and (4) to read as follows:

(2-a) “*Commission*” means the Texas Commission of Licensing and Regulation.

(3) “*Department*” means the Texas Department of Licensing and Regulation ~~[State Health Services]~~.

(4) “*Executive director* ~~[commissioner]~~” means the executive director ~~[commissioner]~~ of the department ~~[Health and Human Services Commission]~~.

SECTION 1.255. The heading to Subchapter B, Chapter 1952, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

SUBCHAPTER B. POWERS AND DUTIES ~~[OF EXECUTIVE COMMISSIONER AND DEPARTMENT]~~

SECTION 1.256. Section 1952.051, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 1952.051. *GENERAL POWERS AND DUTIES* ~~[RULES]~~. (a) *The executive director shall administer and enforce this chapter.*

(b) The *commission* ~~[executive commissioner]~~ by rule shall:

~~[(1)]~~ adopt standards and education requirements consistent with those established under Chapter 654, Government Code, for the registration of:

(1) ~~[(A)]~~ code enforcement officers; and

(2) ~~[(B)]~~ code enforcement officers in training~~[-and~~

~~[(2) prescribe application forms for original and renewal certificates of registration].~~

SECTION 1.257. Section 1952.053(b), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(b) The register must include:

- (1) the name, residence, date of birth, and social security number of the applicant;
- (2) the name and address of the employer or business of the applicant;
- (3) the date of the application;
- (4) the education and experience qualifications of the applicant;
- (5) the action taken by the department regarding the application and the date of the action;
- (6) the serial number of any certificate of registration issued to the applicant; and
- (7) any other information required by *commission* ~~[department]~~ rule.

SECTION 1.258. Subchapter B, Chapter 1952, Occupations Code, is amended by adding Section 1952.055 to read as follows:

Sec. 1952.055. ADVISORY COMMITTEE. The department may establish an advisory committee to provide advice and recommendations to the department on technical matters relevant to the administration of this chapter.

SECTION 1.259. Section 1952.102, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 1952.102. ELIGIBILITY TO REGISTER AS CODE ENFORCEMENT OFFICER. To be eligible to receive a certificate of registration as a code enforcement officer, a person must:

- (1) *submit an application in the manner and on the form prescribed by the executive director;*
- (2) *have at least one year of full-time experience in the field of code enforcement;*
- (3) ~~[(2)]~~ *pass the examination required [conducted] by the department [or the department's designee];*
- (4) ~~[(3)]~~ *pay the application, examination, and registration fees; and*
- (5) ~~[(4)]~~ *meet any other requirements prescribed by this chapter or by commission [department] rule.*

SECTION 1.260. Section 1952.103(a), Occupations Code, is amended to read as follows:

(a) An applicant for a certificate of registration under this chapter who has less than one year of full-time experience in code enforcement is entitled to receive a certificate of registration as a code enforcement officer in training on:

- (1) passing the examination described by Section 1952.102(3) ~~[1952.102(2)]~~; ~~[and]~~
- (2) paying the required fees; *and*
- (3) *meeting any other requirement prescribed by this chapter or by commission rule.*

SECTION 1.261. The heading to Section 1952.105, Occupations Code, is amended to read as follows:

Sec. 1952.105. TERM ~~[RENEWAL OR REINSTATEMENT]~~ OF CERTIFICATE; RENEWAL.

SECTION 1.262. Section 1952.105(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) A certificate of registration issued under this chapter expires on the second anniversary of the date of issuance and may be renewed biennially on payment of the required renewal fee and on completion of the continuing education requirements prescribed by *commission* ~~[department]~~ rule.

SECTION 1.263. Section 1952.1051, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 1952.1051. CONTINUING EDUCATION. The *commission* [~~executive commissioner~~] by rule shall prescribe continuing education requirements for code enforcement officers and code enforcement officers in training that:

- (1) establish the number of hours of continuing education required for renewal of a certificate of registration;
- (2) establish an approved curriculum that includes material regarding changes in applicable law; and
- (3) provide that the approved curriculum may be taught by suitable public agencies and by private entities approved by the department.

SECTION 1.264. Section 1952.151, Occupations Code, is amended to read as follows:

Sec. 1952.151. DENIAL OF CERTIFICATE; DISCIPLINARY ACTION. (a) The *commission or executive director* [~~department~~] may deny a person's application for a certificate of registration if the person's certificate or license to engage in code enforcement or a related profession has been revoked by another licensing entity in this state or another state for:

- (1) unprofessional conduct;
- (2) fraud, deceit, or negligence; or
- (3) misconduct in the practice of code enforcement or a related profession.

(b) The *commission or executive director* [~~department~~] shall suspend or revoke a certificate of registration issued under this chapter if the *commission or executive director* [~~department~~] determines that the certificate holder:

- (1) engaged in fraud or deceit in obtaining a certificate; or
- (2) is grossly negligent, incompetent, or guilty of misconduct in the practice of code enforcement.

SECTION 1.265. Section 1952.252(a), Occupations Code, is amended to read as follows:

(a) The amount of *an* [~~the~~] administrative penalty *imposed for a violation of this chapter or a rule adopted or order issued under this chapter* may not be less than \$50 or more than \$5,000 for each violation. Each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty.

SECTION 1.266. Section 1953.001, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended by amending Subdivisions (1) and (2) and adding Subdivision (1-a) to read as follows:

(1) "Commission" means the *Texas Commission of Licensing and Regulation*.

(1-a) "Department" means the *Texas Department of Licensing and Regulation* [~~State Health Services~~].

(2) "Executive director" [~~commissioner~~] means the executive director [~~commissioner~~] of the *department* [~~Health and Human Services Commission~~].

SECTION 1.267. The heading to Subchapter B, Chapter 1953, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

SUBCHAPTER B. POWERS AND DUTIES [~~OF EXECUTIVE COMMISSIONER AND DEPARTMENT~~]

SECTION 1.268. Section 1953.051, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 1953.051. GENERAL POWERS AND DUTIES [~~OF DEPARTMENT~~]. (a) *The executive director shall administer and enforce this chapter.*

(b) The department shall:

- (1) administer continuing education requirements; and
- (2) prescribe necessary forms.

SECTION 1.269. Subchapter B, Chapter 1953, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended by adding Section 1953.0512 to read as follows:

Sec. 1953.0512. ADVISORY COMMITTEE. The department may establish an advisory committee to provide advice and recommendations to the department on technical matters relevant to the administration of this chapter.

SECTION 1.270. Section 1953.102, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 1953.102. ELIGIBILITY REQUIREMENTS. (a) To be eligible to receive a certificate of registration as a professional sanitarian, a person must:

- (1) hold at least a bachelor's degree from an accredited college or university that includes at least 30 semester hours in basic or applied science;
- (2) complete any additional training in the basic sciences or public health the department ~~[executive commissioner]~~ determines necessary to effectively serve as a professional sanitarian; and
- (3) have at least two years of full-time experience in sanitation.

(b) The *commission* ~~[executive commissioner]~~ by rule may establish other qualifications for registration.

SECTION 1.271. Section 1953.104(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) The department shall issue a certificate of registration as a professional sanitarian to a person who:

- (1) applies *in the manner and on the form* prescribed by the *executive director* ~~[department]~~;
- (2) pays the registration fee set by the *commission* ~~[executive commissioner]~~ by rule;
- (3) meets the eligibility requirements prescribed by Section 1953.102; and
- (4) passes an examination under Subchapter D.

SECTION 1.272. Section 1953.105(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) The department shall issue a certificate of registration as a sanitarian in training to a person who:

- (1) is employed in sanitation;
- (2) meets the eligibility requirements prescribed by Section 1953.102, other than the requirements relating to experience;
- (3) pays a registration fee prescribed by the *commission* ~~[executive commissioner]~~ by rule for a sanitarian in training; and
- (4) passes an examination under Subchapter D.

SECTION 1.273. The heading to Section 1953.106, Occupations Code, is amended to read as follows:

Sec. 1953.106. RENEWAL ~~[OR REINSTATEMENT]~~ OF CERTIFICATE.

SECTION 1.274. Section 1953.106(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) To renew a certificate of registration under this chapter, a professional sanitarian must:

- (1) pay to the department a renewal fee prescribed by the *commission* ~~[executive commissioner]~~ by rule; and

(2) provide proof of completion of continuing education *requirements* ~~[contact hours as]~~ prescribed by the *commission* by rule ~~[executive commissioner]~~.

SECTION 1.275. Section 1953.151(b), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(b) An applicant for a certificate of registration may not take the examination unless the applicant pays the examination fee prescribed by the *commission* ~~[executive commissioner]~~ by rule.

SECTION 1.276. Section 1953.201, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 1953.201. DENIAL OF CERTIFICATE; DISCIPLINARY ACTION. (a) The *commission* or *executive director* ~~[department]~~ may deny a person's application for a certificate of registration if:

(1) the person's certificate or license to engage in a profession in this state or elsewhere has been revoked for unprofessional conduct, fraud, deceit, negligence, or misconduct in the practice of the profession; or

(2) satisfactory proof is presented to the *commission* or *executive director* ~~[department]~~ establishing that the person has been found guilty of unprofessional conduct, fraud, deceit, negligence, or misconduct in the practice of a profession.

(b) The *commission* or *executive director* ~~[department]~~ may suspend or revoke a certificate of registration if the certificate holder:

(1) practiced fraud or deceit in obtaining the certificate; or

(2) acted in a manner constituting gross negligence, incompetency, or misconduct in the practice of sanitation.

SECTION 1.277. Section 1953.302(a), Occupations Code, is amended to read as follows:

(a) The amount of *an* ~~[the]~~ administrative penalty *imposed for a violation of this chapter or a rule adopted or order issued under this chapter* may not be less than \$50 or more than \$5,000 for each violation. Each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty.

SECTION 1.278. Section 1958.001, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended by amending Subdivisions (1) and (2) and adding Subdivision (1-a) to read as follows:

(1) "Commission" means the Texas Commission of Licensing and Regulation.

(1-a) "Department" means the Texas Department of Licensing and Regulation ~~[State Health Services]~~.

(2) "Executive director ~~[commissioner]~~" means the executive director ~~[commissioner]~~ of the department ~~[Health and Human Services Commission]~~.

SECTION 1.279. Section 1958.051, Occupations Code, is amended to read as follows:

Sec. 1958.051. GENERAL POWERS AND DUTIES ~~[OF DEPARTMENT; SCOPE OF AUTHORITY]~~. The *executive director* ~~[department]~~ shall administer and enforce this chapter to protect the public from the adverse health effects of mold.

SECTION 1.280. Section 1958.054, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 1958.054. RULES REGARDING PERFORMANCE STANDARDS AND WORK PRACTICES. The *commission* ~~[executive commissioner]~~ by rule shall establish minimum performance standards and work practices for conducting a mold assessment or mold remediation in this state.

SECTION 1.281. Section 1958.056(b), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(b) The *commission* ~~[executive commissioner]~~ shall adopt rules regarding compliance investigations.

SECTION 1.282. Section 1958.058, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 1958.058. SAFETY STANDARDS. The *commission* [~~executive commissioner~~] by rule may develop and establish mold safety standards for license holders if appropriate scientific information exists regarding the effect of mold.

SECTION 1.283. Section 1958.059, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 1958.059. CODE OF ETHICS. The *commission* [~~executive commissioner~~] by rule shall adopt a code of ethics for license holders that promotes the education of mold assessors and mold remediators concerning the ethical, legal, and business principles that should govern their conduct.

SECTION 1.284. Section 1958.101(b), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(b) The *commission* [~~executive commissioner~~] shall adopt rules regarding:

- (1) the scope of mold-related work for which a license is required, including the supervision of employees or other persons by license holders; and
- (2) renewal requirements for a license issued under this chapter.

SECTION 1.285. Section 1958.103, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 1958.103. REGISTRATION REQUIREMENTS FOR EMPLOYEES. The *commission* [~~executive commissioner~~] may adopt rules to require the registration of employees supervised by license holders.

SECTION 1.286. Section 1958.104, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 1958.104. RULES REGARDING LICENSE APPLICATION. The *commission* [~~executive commissioner~~] shall adopt rules regarding a license application. The *commission* [~~executive commissioner~~] shall adopt rules that establish minimum requirements for a license, including:

- (1) the type of license;
- (2) the qualifications for the license, including any previous training required under Section 1958.106;
- (3) renewal requirements for the license, including ongoing continuing education required under Section 1958.106; and
- (4) liability insurance requirements for the license.

SECTION 1.287. Section 1958.106(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) The *commission* [~~executive commissioner~~] shall adopt rules regarding training required under this chapter and continuing education required for a license holder under this chapter.

SECTION 1.288. Section 1958.153(c), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(c) The *commission* [~~executive commissioner~~] shall adopt rules to implement this section, including rules:

- (1) describing the information that must be provided in the notice; and
- (2) authorizing verbal notification to the department in an emergency.

SECTION 1.289. Section 1958.154(c), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(c) The *commission* [~~executive commissioner~~] shall adopt rules to implement this section, other than rules described by Subsection (d).

SECTION 1.290. Section 1958.155(c), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(c) A license holder who is not an individual shall disclose to the department the name, address, and occupation of each person that has an ownership interest in the license holder. The license holder shall report any changes in ownership to the department. The *commission* ~~[executive commissioner]~~ shall adopt rules to implement this section, including rules regarding the form of the disclosure and the time required to make disclosures or to report a change in ownership.

SECTION 1.291. Section 1958.201, Occupations Code, is amended to read as follows:

Sec. 1958.201. DISCIPLINARY ACTION. If a license holder violates this chapter or an order or rule adopted under this chapter, the *commission or executive director* ~~[department]~~, after providing the person with notice and an opportunity for a hearing, shall take one or more of the following actions:

- (1) revoke, suspend, or refuse to renew the license;
- (2) impose an administrative penalty;
- (3) bring an action to collect a civil penalty; or
- (4) reprimand the person.

SECTION 1.292. Section 1958.252, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 1958.252. AMOUNT OF PENALTY. (a) The amount of an administrative penalty *imposed for a violation of this chapter or a rule adopted or order issued under this chapter* may not exceed \$5,000 for each violation. Each day a violation continues under Section 1958.101 or 1958.155 may be considered a separate violation for purposes of imposing a penalty.

(b) *The amount shall be based on* ~~[In determining the amount of the penalty, the department shall consider]~~:

- (1) whether the violation was committed knowingly, intentionally, or fraudulently;
- (2) the seriousness of the violation;
- (3) any hazard created to the health and safety of the public;
- (4) the person's history of previous violations; and
- (5) any other matter that justice may require.

SECTION 1.293. Section 1958.253(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) The *commission or executive director* ~~[department]~~ may choose not to impose an administrative penalty under this subchapter if, not later than the 10th day after the date of written notice of the violation ~~[under Section 1958.254]~~, the person provides conclusive evidence that the circumstances giving rise to the violation have been corrected and all actual damages are paid.

SECTION 1.294. Section 521.374(a), Transportation Code, is amended to read as follows:

(a) A person whose license is suspended under Section 521.372 may attend an educational program, approved by the Texas *Department of Licensing and Regulation* ~~[Commission on Alcohol and Drug Abuse]~~ under rules adopted by the *Texas Commission of Licensing and Regulation* ~~[commission]~~ and the department, that is designed to educate persons on the dangers of drug abuse.

SECTION 1.295. Section 521.375, Transportation Code, is amended to read as follows:

Sec. 521.375. JOINT ADOPTION OF RULES. (a) The Texas *Commission of Licensing and Regulation* ~~[on Alcohol and Drug Abuse]~~ and the department shall jointly adopt rules for the qualification and approval of providers of educational programs under Section 521.374.

(b) The Texas *Department of Licensing and Regulation* ~~[Commission on Alcohol and Drug Abuse]~~ shall publish the jointly adopted rules.

SECTION 1.296. Section 521.376, Transportation Code, is amended to read as follows:

Sec. 521.376. DUTIES OF TEXAS *DEPARTMENT OF LICENSING AND REGULATION* [~~COMMISSION ON ALCOHOL AND DRUG ABUSE~~]; APPLICATION AND RENEWAL FEES. The Texas *Department of Licensing and Regulation* [~~Commission on Alcohol and Drug Abuse~~]:

- (1) shall monitor, coordinate, and provide training to persons who provide educational programs under Section 521.374;
- (2) shall administer the approval of those educational programs; and
- (3) may charge a nonrefundable application fee for:
 - (A) initial certification of approval; and
 - (B) renewal of the certification.

SECTION 1.297. The following provisions of the Health and Safety Code are repealed:

- (1) Section 401.509;
- (2) Section 401.511;
- (3) Sections 401.512(b) and (c); and
- (4) Sections 401.522(b) and (c).

SECTION 1.298. The following provisions of the Occupations Code, including provisions amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, are repealed:

- (1) Section 455.051;
- (2) Section 455.056;
- (3) Section 455.057;
- (4) Section 455.058;
- (5) Section 455.1565;
- (6) Section 455.1571;
- (7) Sections 455.160(b), (c), (d), (e), (f), and (g);
- (8) Section 455.161;
- (9) Section 455.252;
- (10) Section 455.253;
- (11) Section 455.254;
- (12) Section 455.301;
- (13) Section 455.303;
- (14) Section 455.304;
- (15) Section 455.305;
- (16) Section 455.306;
- (17) Section 455.307;
- (18) Section 455.308;
- (19) Section 455.309;
- (20) Section 455.310;
- (21) Section 455.311;
- (22) Section 1952.052;
- (23) Section 1952.054;
- (24) Section 1952.105(b);
- (25) Section 1952.152;

- (26) Section 1952.251;
- (27) Section 1952.253;
- (28) Section 1952.254;
- (29) Section 1952.255;
- (30) Section 1952.256;
- (31) Section 1952.257;
- (32) Section 1952.258;
- (33) Section 1952.259;
- (34) Section 1952.260;
- (35) Section 1952.261;
- (36) Section 1953.0511;
- (37) Section 1953.052;
- (38) Section 1953.054;
- (39) Section 1953.055;
- (40) Section 1953.103;
- (41) Section 1953.106(b);
- (42) Section 1953.152;
- (43) Section 1953.202;
- (44) Section 1953.301;
- (45) Section 1953.303;
- (46) Section 1953.304;
- (47) Section 1953.305;
- (48) Section 1953.306;
- (49) Section 1953.307;
- (50) Section 1953.308;
- (51) Section 1953.309;
- (52) Section 1953.310;
- (53) Section 1953.311;
- (54) Section 1958.053;
- (55) Section 1958.055(a);
- (56) Section 1958.057;
- (57) Section 1958.107;
- (58) Section 1958.251;
- (59) Section 1958.254;
- (60) Section 1958.255;
- (61) Section 1958.256;
- (62) Section 1958.257;
- (63) Section 1958.258; and
- (64) Section 1958.302.

PART 3. TRANSITION PROVISIONS

SECTION 1.299. (a) A rule or fee of the Department of State Health Services that relates to a program transferred under this article and that is in effect on the effective date of the transfer remains in effect until changed by the Texas Commission of Licensing and Regulation.

(b) A license, permit, certificate of registration, or other authorization issued by the Department of State Health Services for a program transferred under this article is continued in effect as a license, permit, certificate, or other authorization of the Texas Department of Licensing and Regulation after the effective date of the transfer.

(c) A complaint, investigation, contested case, or other proceeding before the Department of State Health Services relating to a program transferred under this article that is pending on the effective date of the transfer is transferred without change in status to the Texas Commission of Licensing and Regulation or Texas Department of Licensing and Regulation, as appropriate.

SECTION 1.300. (a) As soon as practicable after the effective date of a transfer under this article, the Department of State Health Services and the Texas Department of Licensing and Regulation shall adopt a transition plan to provide for the orderly transfer of powers, duties, functions, programs, and activities under this article. The transition plan must provide for the transfer to be completed:

(1) not later than August 31, 2017, for a program transferred under Part 1 of this article; or

(2) not later than August 31, 2019, for a program transferred under Part 2 of this article.

(b) The Department of State Health Services shall provide the Texas Department of Licensing and Regulation with access to any systems or information necessary for the Texas Department of Licensing and Regulation to accept a program transferred under this article.

(c) On the date specified in the transition plan required under Subsection (a) of this section for the transfer of a particular program to the Texas Department of Licensing and Regulation, if applicable, the existing board associated with the program is abolished and the Texas Department of Licensing and Regulation shall, as soon as practicable after that date, appoint the advisory board for the program.

(d) On the date specified in the transition plan required under Subsection (a) of this section for the transfer of a particular program to the Texas Department of Licensing and Regulation, all full-time equivalent employee positions at the Department of State Health Services that primarily concern the administration or enforcement of the program being transferred become positions at the Texas Department of Licensing and Regulation. The Texas Department of Licensing and Regulation shall post the positions for hiring and, when filling the positions, shall give consideration to, but is not required to hire, an applicant who, immediately before the date of the transfer, was an employee at the Department of State Health Services primarily involved in administering or enforcing the transferred program.

(e) Not later than August 31, 2017, the Texas Department of Licensing and Regulation shall create a health professions division to oversee programs transferred under this article and to ensure the department develops the necessary health-related expertise.

SECTION 1.301. (a) The Texas Department of Licensing and Regulation shall, not later than December 1 of each year, submit a report regarding the implementation of this article with respect to that calendar year to:

(1) the Sunset Advisory Commission;

(2) each standing committee of the senate and house of representatives having primary jurisdiction over matters related to health and human services or the occupational licensing of health-related professions; and

(3) each advisory board or committee established to advise the Texas Department of Licensing and Regulation with regard to a program transferred to the department under this article.

(b) A report submitted under this section must include:

(1) detailed information regarding:

(A) the status of the implementation of the transition plan adopted under Section

1.300 of this Act, including an explanation of any delays or challenges in implementing the plan;

(B) appointments to each advisory board or committee established to advise the Texas Department of Licensing and Regulation with regard to a program transferred to the department under this article; and

(C) the establishment and operation of the health professions division of the Texas Department of Licensing and Regulation; and

(2) any other information the Texas Department of Licensing and Regulation considers relevant to the transfer of programs to the department under this article.

(c) In preparing a report required by this section, the Texas Department of Licensing and Regulation shall solicit input from the Department of State Health Services and each advisory board or committee established to advise the Texas Department of Licensing and Regulation with regard to a program transferred to the department under this article.

(d) The Texas Department of Licensing and Regulation shall make each report submitted under this section available to the public on the department's Internet website.

(e) This section expires January 1, 2020.

ARTICLE 2. REGULATORY PROGRAMS TRANSFERRED TO THE TEXAS MEDICAL BOARD

SECTION 2.001. Section 151.004, Occupations Code, is amended to read as follows:

Sec. 151.004. APPLICATION OF SUNSET ACT. The Texas Medical Board is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this subtitle and Chapters 204, 205, [and] 206, 601, 602, 603, and 604 expire September 1, 2017.

SECTION 2.002. Chapter 167, Occupations Code, is amended by adding Section 167.0091 to read as follows:

Sec. 167.0091. REFERRALS FOR CERTAIN PROFESSIONS. *Notwithstanding any other provision of this chapter, the board, the Texas Board of Medical Radiologic Technology, or the Texas Board of Respiratory Care, as appropriate, may make a referral to the program and require participation in the program as a prerequisite for issuing or maintaining a license, certificate, permit, or other authorization under Chapter 601, 602, 603, or 604.*

SECTION 2.003. Section 601.002, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended by amending Subdivisions (1), (3), and (4) and adding Subdivisions (1-a), (4-a), and (4-b) to read as follows:

(1) "Advisory board" means the Texas Board of Medical Radiologic Technology.

(1-a) "Authorized person" means a person who meets or exceeds the minimum educational standards of the advisory board [department] under Section 601.201.

(3) "Direct supervision" means supervision and control by a medical radiologic technologist or a practitioner who:

(A) assumes legal liability for a student employed to perform a radiologic procedure and enrolled in a program that meets the requirements adopted under Section 601.052 [601.053]; and

(B) is physically present during the performance of the radiologic procedure to provide consultation or direct the action of the student.

(4) "Education program" means clinical training or any other program offered by an organization approved by the advisory board [department] that:

(A) has a specified objective;

(B) includes planned activities for participants; and

(C) uses an approved method for measuring the progress of participants.

(4-a) "Hospital" has the meaning assigned by Section 157.051.

(4-b) *“Medical board” means the Texas Medical Board.*

SECTION 2.004. Chapter 601, Occupations Code, is amended by adding Subchapter A-1 to read as follows:

**SUBCHAPTER A-1. TEXAS BOARD OF MEDICAL RADIOLOGIC
TECHNOLOGY**

Sec. 601.021. TEXAS BOARD OF MEDICAL RADIOLOGIC TECHNOLOGY. *The Texas Board of Medical Radiologic Technology is an advisory board to the Texas Medical Board.*

Sec. 601.022. APPOINTMENT OF ADVISORY BOARD. (a) *The advisory board consists of nine members appointed by the governor with the advice and consent of the senate as follows:*

- (1) four medical radiologic technologists who each have at least five years of experience as a medical radiologic technologist;*
- (2) two physicians licensed in this state who supervise medical radiologic technologists; and*
- (3) three members who represent the public.*

(b) Appointments to the advisory board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

Sec. 601.023. MEMBERSHIP ELIGIBILITY AND RESTRICTIONS. (a) *In this section, “Texas trade association” means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.*

(b) A person may not be a public member of the advisory board if the person or the person’s spouse:

- (1) is registered, certified, or licensed by a regulatory agency in a health care profession;*
- (2) is employed by or participates in the management of a business entity or other organization regulated by or receiving money from the medical board or advisory board;*
- (3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the medical board or advisory board; or*
- (4) uses or receives a substantial amount of tangible goods, services, or money from the medical board or advisory board other than compensation or reimbursement authorized by law for advisory board membership, attendance, or expenses.*

(c) A person may not be a member of the advisory board if:

- (1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of health care; or*
- (2) the person’s spouse is an officer, manager, or paid consultant of a Texas trade association in the field of health care.*

(d) A person may not be a member of the advisory board or act as the general counsel to the advisory board if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person’s activities for compensation on behalf of a profession related to the operation of the medical board or advisory board.

Sec. 601.024. TERMS; VACANCIES. (a) *Members of the advisory board are appointed for staggered six-year terms. The terms of three members expire on February 1 of each odd-numbered year.*

(b) A member may not serve more than:

- (1) two consecutive full terms; or*

(2) a total of three full terms.

(c) If a vacancy occurs during a member's term, the governor shall appoint a new member to fill the unexpired term.

Sec. 601.025. **OFFICERS.** The governor shall designate a member of the advisory board as the presiding officer of the advisory board to serve in that capacity at the will of the governor. The advisory board shall select from its membership an assistant presiding officer and other officers as the advisory board considers necessary to carry out the advisory board's duties.

Sec. 601.026. **GROUND FOR REMOVAL.** (a) It is a ground for removal from the advisory board that a member:

(1) does not have at the time of taking office the qualifications required by Sections 601.022 and 601.023;

(2) does not maintain during service on the advisory board the qualifications required by Sections 601.022 and 601.023;

(3) is ineligible for membership under Section 601.023;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled advisory board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the advisory board.

(b) The validity of an action of the advisory board is not affected by the fact that it is taken when a ground for removal of an advisory board member exists.

(c) If the executive director of the medical board has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the advisory board of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the advisory board, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Sec. 601.027. **PER DIEM.** A member of the advisory board is entitled to receive a per diem as set by legislative appropriation for each day that the member engages in the business of the advisory board.

Sec. 601.028. **APPLICATION OF OPEN MEETINGS, OPEN RECORDS, AND ADMINISTRATIVE PROCEDURE LAWS.** Except as otherwise provided by this chapter, the advisory board is subject to Chapters 551, 552, and 2001, Government Code.

Sec. 601.029. **MEETINGS; QUORUM REQUIREMENTS.** (a) The advisory board shall conduct regular meetings at least three times a year at the times and places the advisory board considers most convenient for applicants and advisory board members.

(b) The advisory board may hold special meetings in accordance with rules adopted by the advisory board and approved by the medical board.

(c) A majority of the advisory board members constitutes a quorum for all purposes except for an advisory board activity related to examining the credentials of applicants, acting as a panel for disciplinary action under Section 601.306, or conducting an informal meeting under Section 601.311.

Sec. 601.030. **TRAINING.** (a) A person who is appointed to and qualifies for office as a member of the advisory board may not vote, deliberate, or be counted as a member in attendance at a meeting of the advisory board until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) this chapter and the advisory board's programs, functions, rules, and budget;

(2) the results of the most recent formal audit of the advisory board;

(3) *the requirements of laws relating to open meetings, public information, administrative procedure, and conflicts of interest; and*

(4) *any applicable ethics policies adopted by the advisory board or the Texas Ethics Commission.*

(c) *A person appointed to the advisory board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.*

SECTION 2.005. The heading to Subchapter B, Chapter 601, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

SUBCHAPTER B. POWERS AND DUTIES OF ADVISORY BOARD ~~[EXECUTIVE COMMISSIONER]~~ AND MEDICAL BOARD ~~[DEPARTMENT]~~

SECTION 2.006. Section 601.052, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 601.052. *GENERAL POWERS AND DUTIES OF ADVISORY BOARD [RULES].* The advisory board shall:

(1) ~~[executive commissioner may]~~ *adopt rules that are reasonable and necessary for the performance of the advisory board's duties under [to implement] this chapter, as provided by Chapter 2001, Government Code, including rules to establish:*

(A) *the certification program required by Subchapter C, including minimum standards for issuing, renewing, suspending, canceling, or revoking a certificate;*

(B) *certification renewal dates;*

(C) *the registry required by Subchapter E;*

(D) *grounds for disciplinary actions;*

(E) *procedures for disciplinary proceedings;*

(F) *procedures for non-disciplinary remedial plans;*

(G) *minimum standards for approving and rescinding approval of curricula and education programs to train medical radiologic technologists to perform radiologic procedures;*

(H) *minimum standards for approving and rescinding approval of instructors to teach approved curricula or education programs to train medical radiologic technologists to perform radiologic procedures;*

(I) *procedures for requiring an applicant for or holder of a certificate to submit to:*

(i) *an examination of the applicant's or holder's physical or mental health; and*

(ii) *screening for alcohol or substance abuse or behavioral issues; and*

(J) *procedures for making a confidential referral to the Texas Physician Health Program established under Chapter 167, and for requiring participation in the program as a prerequisite for issuing or maintaining a certificate under this chapter or approval under Section 601.054 or 601.055;*

(2) *review and approve or reject each application for the issuance or renewal of a certificate;*

(3) *issue each certificate;*

(4) *deny, suspend, or revoke a certificate or otherwise discipline a certificate holder; and*

(5) *take any action necessary to carry out the functions and duties of the advisory board under this chapter.*

SECTION 2.007. Subchapter B, Chapter 601, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended by adding Sections

601.0521 and 601.0522 to read as follows:

Sec. 601.0521. GUIDELINES FOR EARLY INVOLVEMENT IN RULEMAKING PROCESS. (a) *The advisory board shall adopt guidelines to establish procedures for receiving input during the rulemaking process from individuals and groups that have an interest in matters under the advisory board's jurisdiction. The guidelines must provide an opportunity for those individuals and groups to provide input before the advisory board submits the rule to the medical board for approval.*

(b) *A rule adopted under this chapter may not be challenged on the grounds that the advisory board did not comply with this section. If the advisory board was unable to solicit a significant amount of input from the public or affected persons early in the rulemaking process, the advisory board shall state in writing the reasons why it was unable to do so.*

Sec. 601.0522. POWERS AND DUTIES OF MEDICAL BOARD RELATING TO RADIOLOGIC PROCEDURES. (a) *The medical board shall adopt rules consistent with this chapter to regulate individuals who:*

(1) perform radiologic procedures; and

(2) are licensed by the medical board and supervise an individual who performs radiologic procedures.

(b) The medical board, by a majority vote, shall approve or reject each rule adopted by the advisory board. If approved, the rule may take effect. If the rule is rejected, the medical board shall return the rule to the advisory board for revision.

SECTION 2.008. Section 601.054, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 601.054. APPROVAL AND REVIEW OF CURRICULA AND TRAINING PROGRAMS. (a) *An applicant for approval of a curriculum or training program must apply to the advisory board [department] on a form [prescribed by the department] and under rules adopted by the advisory board [executive commissioner].*

(b) *The advisory board [department] shall approve a curriculum or training program that meets the minimum standards adopted under Section 601.052 [601.053]. The advisory board [department] may review the approval annually.*

(c) *The advisory board [executive commissioner] may set a fee for approval of a curriculum or training program not to exceed the estimated amount that the advisory board [department] projects to be required for the evaluation of the curriculum or training program.*

SECTION 2.009. Section 601.055, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 601.055. APPROVAL AND REVIEW OF INSTRUCTOR APPROVAL. (a) *An applicant for approval of an instructor must apply to the advisory board [department] on a form [prescribed by the department] and under rules adopted by the advisory board [executive commissioner].*

(b) *The advisory board [department] shall approve an instructor who meets the minimum standards adopted under Section 601.052 [601.053]. The advisory board [department] may review the approval annually.*

SECTION 2.010. Section 601.056(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) *The medical board, [executive commissioner] with the assistance of the Texas Board of Nursing, the Texas Physician Assistant Board, and other appropriate state agencies, shall identify by rule radiologic procedures, other than radiologic procedures described by Subsection (c), that are dangerous or hazardous and that may be performed only by a practitioner, [or a] medical radiologic technologist certified under this chapter, registered nurse, or licensed physician assistant.*

SECTION 2.011. Section 601.057, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 601.057. FEES. The *advisory board by rule* [~~executive commissioner~~] may set fees for examination, certificate issuance, registration of a person under Section 601.202, and application processing under Section 601.203 in amounts that are reasonable to cover the costs of administering this chapter without the use of additional general revenue. [~~The fees for issuing or renewing a certificate must be in amounts designed to allow the department to recover from the certificate holders all of the department's direct and indirect costs in administering and enforcing this chapter.~~]

SECTION 2.012. Subchapter B, Chapter 601, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended by adding Sections 601.0571 and 601.0572 to read as follows:

Sec. 601.0571. *FEE REFUND ON CANCELLATION.* The *advisory board* may adopt rules relating to the refund of a fee for the issuance or renewal of a certificate after the cancellation of a certificate.

Sec. 601.0572. *RULES ON CONSEQUENCES OF CRIMINAL CONVICTION.* The *advisory board* shall adopt rules and guidelines as necessary to comply with Chapter 53, except to the extent the requirements of this chapter are stricter than the requirements of Chapter 53.

SECTION 2.013. Section 601.058, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 601.058. RULES RESTRICTING ADVERTISING OR COMPETITIVE BIDDING. (a) The *advisory board* [~~executive commissioner~~] may not adopt rules restricting advertising or competitive bidding by a medical radiologic technologist except to prohibit false, misleading, or deceptive practices.

(b) In adopting rules to prohibit false, misleading, or deceptive practices, the *advisory board* [~~executive commissioner~~] may not include a rule that:

- (1) restricts the use of any medium for advertising;
- (2) restricts the use of a medical radiologic technologist's personal appearance or voice in an advertisement;
- (3) relates to the size or duration of an advertisement by the medical radiologic technologist; or
- (4) restricts the medical radiologic technologist's advertisement under a trade name.

SECTION 2.014. Subchapter B, Chapter 601, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended by adding Sections 601.059 and 601.060 to read as follows:

Sec. 601.059. *ASSISTANCE BY MEDICAL BOARD; DIVISION OF RESPONSIBILITIES.* (a) The *medical board* shall provide administrative and clerical employees as necessary to enable the *advisory board* to administer this chapter.

(b) Subject to the advice and approval of the *medical board*, the *advisory board* shall develop and implement policies that clearly separate the policy-making responsibilities of the *advisory board* and the management responsibilities of the *executive director* and staff of the *medical board*.

Sec. 601.060. *PUBLIC PARTICIPATION.* Subject to the advice and approval of the *medical board*, the *advisory board* shall develop and implement policies that provide the public with a reasonable opportunity to appear before the *advisory board* and to speak on any issue under the jurisdiction of the *advisory board*.

SECTION 2.015. Section 601.102, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 601.102. CLASSES OF CERTIFICATES. (a) The *advisory board* [~~executive commissioner~~] shall establish classes of certificates to include all radiologic procedures used in the course and scope of the practice of practitioners licensed in this state.

(b) The *advisory board* [~~department~~] may issue to a person:

(1) a general certificate to perform radiologic procedures; or

(2) a limited certificate that authorizes the person to perform radiologic procedures only on specific parts of the human body.

(c) The *advisory board* ~~[department]~~ may issue to a person a temporary general certificate or a temporary limited certificate that authorizes the person to perform radiologic procedures for a period not to exceed one year.

SECTION 2.016. Subchapter C, Chapter 601, Occupations Code, is amended by adding Section 601.1031 to read as follows:

Sec. 601.1031. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR REGISTRATION. (a) The advisory board shall require that an applicant for a certificate submit a complete and legible set of fingerprints, on a form prescribed by the advisory board, to the advisory board or to the Department of Public Safety for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation.

(b) The advisory board may not issue a certificate to a person who does not comply with the requirement of Subsection (a).

(c) The advisory board shall conduct a criminal history check of each applicant for a certificate using information:

(1) provided by the individual under this section; and

(2) made available to the advisory board by the Department of Public Safety, the Federal Bureau of Investigation, and any other criminal justice agency under Chapter 411, Government Code.

(d) The advisory board may:

(1) enter into an agreement with the Department of Public Safety to administer a criminal history check required under this section; and

(2) authorize the Department of Public Safety to collect from each applicant the costs incurred by the Department of Public Safety in conducting the criminal history check.

SECTION 2.017. Section 601.104, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 601.104. EXAMINATION. (a) The advisory board ~~[executive commissioner]~~ *may adopt rules providing for the preparation and administration of an examination for applicants for a certificate.*

(b) An applicant for a certificate must pass a jurisprudence examination approved by the advisory board.

SECTION 2.018. Section 601.1041, Occupations Code, is amended to read as follows:

Sec. 601.1041. NOTIFICATION OF EXAMINATION RESULTS. (a) Not later than the 30th day after the date a person takes an examination for a certificate under this chapter, the advisory board ~~[department]~~ *shall notify the person of the results of the examination.*

(b) If the examination is graded or reviewed by a testing service, the advisory board ~~[department]~~ *shall notify the person of the results of the examination not later than the 14th day after the date the advisory board* ~~[department]~~ *receives the results from the testing service. If notice of the examination results will be delayed for longer than 90 days after the examination date, the advisory board* ~~[department]~~ *shall notify the person of the reason for the delay before the 90th day.*

(c) The advisory board ~~[department]~~ *may require a testing service to notify a person of the results of the person's examination.*

(d) If requested in writing by a person who fails an examination for a certificate administered under this chapter, the advisory board ~~[department]~~ *shall furnish the person with an analysis of the person's performance on the examination.*

SECTION 2.019. Section 601.105, Occupations Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) The *advisory board* ~~[department]~~ shall issue a certificate to an applicant who:

(1) meets the minimum standards for certification established under Section 601.052;

(2) *passes the required examinations;*

(3) *complies with the criminal history record information requirement of Section 601.1031;*

(4) *submits an application on a form prescribed by the advisory board;*

(5) *pays the required application fee;*

(6) *certifies that the applicant is mentally and physically able to perform radiologic procedures; and*

(7) *submits to the advisory board any other information the advisory board considers necessary to evaluate the applicant's qualifications* ~~[601.053]~~.

(c) *The advisory board may delegate authority to medical board employees to issue certificates under this chapter to applicants who clearly meet all certification requirements. If the medical board employees determine that the applicant does not clearly meet all certification requirements, the application must be returned to the advisory board. A certificate issued under this subsection does not require formal advisory board approval.*

SECTION 2.020. Section 601.107, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 601.107. CERTIFICATION BY ENDORSEMENT. In adopting minimum standards for certifying medical radiologic technologists, the *advisory board* ~~[executive commissioner]~~ may establish criteria for issuing a certificate to a person licensed or otherwise registered as a medical radiologic technologist by the American Registry of Radiologic Technologists, the American Registry of Clinical Radiography Technologists, or another state whose requirements for licensure or registration were on the date of licensing or registration substantially equal to the requirements of this chapter.

SECTION 2.021. Section 601.108, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 601.108. CONTINUING EDUCATION AND OTHER GUIDELINES. (a) The *advisory board* ~~[executive commissioner]~~ may establish guidelines.

(b) The *advisory board* ~~[executive commissioner]~~ shall provide for the preparation, recognition, or administration of continuing education programs for medical radiologic technologists in which participation is required, to the extent required by the *advisory board* ~~[department]~~, to keep the person's certificate.

SECTION 2.022. Section 601.109, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 601.109. PROVISIONAL CERTIFICATE. (a) The *advisory board* ~~[department]~~ may issue a provisional certificate to an applicant currently licensed or certified in another jurisdiction who seeks certification in this state and who:

(1) has been licensed or certified in good standing as a medical radiologic technologist for at least two years in another jurisdiction, including a foreign country, that has licensing or certification requirements substantially equivalent to the requirements of this chapter;

(2) has passed a national or other examination recognized by the *advisory board* ~~[department]~~ relating to the practice of radiologic technology; and

(3) is sponsored by a medical radiologic technologist certified by the *advisory board* ~~[department]~~ under this chapter with whom the provisional certificate holder will practice during the time the person holds a provisional certificate.

(b) The *advisory board* ~~[department]~~ may waive the requirement of Subsection (a)(3) for an applicant if the *advisory board* ~~[department]~~ determines that compliance with that subsection would be a hardship to the applicant.

(c) A provisional certificate is valid until the date the *advisory board* [department] approves or denies the provisional certificate holder's application for a certificate. The *advisory board* [department] shall issue a certificate under this chapter to the provisional certificate holder if:

(1) the provisional certificate holder is eligible to be certified under Section 601.107; or

(2) the provisional certificate holder passes the part of the examination under Section 601.104 that relates to the applicant's knowledge and understanding of the laws and rules relating to the practice of radiologic technology in this state and:

(A) the *advisory board* [department] verifies that the provisional certificate holder meets the academic and experience requirements for a certificate under this chapter; and

(B) the provisional certificate holder satisfies any other licensing requirements under this chapter.

(d) The *advisory board* [department] must approve or deny a provisional certificate holder's application for a certificate not later than the 180th day after the date the provisional certificate is issued. The *advisory board* [department] may extend the 180-day period if the results of an examination have not been received by the *advisory board* [department] before the end of that period.

(e) The *advisory board* [executive commissioner] by rule may establish a fee for a provisional certificate in an amount *reasonable and necessary to cover the cost of issuing the certificate* [designed to allow the department to recover from the certificate holders all of the department's direct and indirect costs in administering and enforcing this chapter].

SECTION 2.023. Section 601.110, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 601.110. CERTIFICATE EXPIRATION. (a) Not later than the 30th day before the date a person's certificate is scheduled to expire, the *advisory board* [department] shall send written notice of the impending expiration to the person at the person's last known address according to the records of the *advisory board* [department].

(b) The *advisory board* [executive commissioner] by rule may adopt a system under which certificates expire on various dates during the year. For the year in which the certificate expiration date is changed, the *advisory board* [department] shall prorate certificate fees on a monthly basis so that each certificate holder pays only that portion of the certificate fee that is allocable to the number of months during which the certificate is valid. On renewal of the certificate on the new expiration date, the total certificate renewal fee is payable.

SECTION 2.024. Section 601.111, Occupations Code, is amended to read as follows:

Sec. 601.111. CERTIFICATE RENEWAL [PROCEDURE]. (a) *On notification from the advisory board, a* [A] person who is otherwise eligible to renew a certificate may renew an unexpired certificate by:

(1) paying the required renewal fee to the *advisory board* [department] before the expiration date of the certificate;

(2) *submitting the appropriate form; and*

(3) *meeting any other requirement established by advisory board rule.*

(a-1) A person whose certificate has expired may not engage in activities that require a certificate until the certificate has been renewed.

(b) A person whose certificate has been expired for 90 days or less may renew the certificate by paying to the *advisory board* [department] a renewal fee that is equal to 1-1/2 times the normally required renewal fee.

(c) A person whose certificate has been expired for more than 90 days but less than one year may renew the certificate by paying to the *advisory board* [department] a renewal fee that is equal to two times the normally required renewal fee.

(d) A person whose certificate has been expired for one year or more may not renew the certificate. The person may obtain a new certificate by complying with the requirements and procedures, including the examination requirements, for an original certificate.

SECTION 2.025. Subchapter C, Chapter 601, Occupations Code, is amended by adding Section 601.1111 to read as follows:

Sec. 601.1111. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR RENEWAL. (a) An applicant for renewal of a certificate shall submit a complete and legible set of fingerprints for purposes of performing a criminal history check of the applicant as provided by Section 601.1031.

(b) The advisory board may not renew the certificate of a person who does not comply with the requirement of Subsection (a).

(c) A certificate holder is not required to submit fingerprints under this section for the renewal of the certificate if the holder has previously submitted fingerprints under:

- (1) Section 601.1031 for the initial issuance of the certificate of registration; or*
- (2) this section as part of a prior renewal of a certificate of registration.*

SECTION 2.026. The heading to Section 601.112, Occupations Code, is amended to read as follows:

Sec. 601.112. RENEWAL OF CERTIFICATE BY OUT-OF-STATE PERSON [PRACTITIONER].

SECTION 2.027. Section 601.112(b), Occupations Code, is amended to read as follows:

(b) The person must pay to the *advisory board* ~~[department]~~ a fee that is equal to two times the normally required renewal fee for the certificate.

SECTION 2.028. Section 601.154, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 601.154. HOSPITAL PROCEDURES. A person is not required to hold a certificate issued under this chapter to perform a radiologic procedure in a hospital if:

- (1) the hospital participates in the federal Medicare program or is accredited by the Joint Commission on Accreditation of Hospitals; and
- (2) the person has completed a training program approved by the *advisory board* ~~[department]~~ under Section 601.201.

SECTION 2.029. Section 601.156, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 601.156. PROCEDURE PERFORMED AS PART OF CONTINUING EDUCATION PROGRAM. A person is not required to hold a certificate issued under this chapter or to comply with the registration requirements adopted under Section 601.252 if the person is:

- (1) licensed or otherwise registered as a medical radiologic technologist by another state, the American Registry of Radiologic Technologists, the American Registry of Clinical Radiography Technologists, or a professional organization or association recognized by the *advisory board* ~~[department]~~;
- (2) enrolled in a continuing education program that meets the requirements adopted under Section 601.108; and
- (3) performing a radiologic procedure as part of the continuing education program for not more than 10 days.

SECTION 2.030. Subchapter E, Chapter 601, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

SUBCHAPTER E. MANDATORY TRAINING FOR CERTAIN AUTHORIZED PERSONS

Sec. 601.201. MANDATORY TRAINING. (a) The minimum standards of the *advisory board* ~~[department]~~ for approval of a curriculum or an education program under Section 601.052 ~~[601.053]~~ must include mandatory training guidelines for a person, other than a practitioner, ~~[or a]~~ medical radiologic technologist, *registered nurse, or licensed physician assistant*, who intentionally uses radiologic technology, including a person who does not hold a certificate issued under this chapter and who is performing a radiologic procedure at a hospital or under the direction of a practitioner, other than a dentist.

(b) The training program approved by the *advisory board* ~~[department]~~ must contain an appropriate number of hours of education that must be completed before the person may perform a radiologic procedure.

Sec. 601.202. REGISTRY. The *advisory board* ~~[executive commissioner]~~ by rule shall establish a registry of persons required to comply with this subchapter.

Sec. 601.203. HARDSHIP EXEMPTION. (a) On application to the *advisory board* ~~[department]~~ by a hospital, a federally qualified health center as defined by 42 U.S.C. Section 1396d, or a practitioner, the *advisory board* ~~[department]~~ shall exempt the applicant from the requirements of Section 601.201 in employing a person certified under this chapter or trained as required by Section 601.201 if the applicant shows a hardship in employing a person certified under this chapter or trained as required by Section 601.201.

(b) The following conditions are considered to be a hardship for the purposes of Subsection (a):

- (1) that the applicant reports an inability to attract and retain medical radiologic technologists;
- (2) that the applicant is located at a great distance from a school of medical radiologic technology;
- (3) that there is a list of qualified persons who have applied to a school of medical radiologic technology whose admissions are pending because of a lack of faculty or space;
- (4) that the school of medical radiologic technology produces an insufficient number of graduates in medical radiologic technology to meet the needs of the applicant; or
- (5) any other criteria determined by *advisory board* ~~[department]~~ rule.

SECTION 2.031. Section 601.251, Occupations Code, is amended to read as follows:

Sec. 601.251. APPLICABILITY. This subchapter applies to the:

- (1) Texas Board of Nursing;
- (2) Texas Board of Chiropractic Examiners;
- (3) State Board of Dental Examiners;
- (4) Texas Medical Board; ~~[and]~~
- (5) Texas State Board of Podiatric Medical Examiners; *and*
- (6) *Texas Physician Assistant Board.*

SECTION 2.032. Section 601.252(a), Occupations Code, is amended to read as follows:

(a) Each agency subject to this subchapter, other than the Texas Board of Nursing *and the Texas Physician Assistant Board*, shall adopt rules to regulate the manner in which a person who holds a license issued by the agency may order, instruct, or direct another authorized person in the performance of a radiologic procedure.

SECTION 2.033. Section 601.253(a), Occupations Code, is amended to read as follows:

(a) The Texas Board of Nursing *shall* ~~[may]~~ adopt rules governing registered nurses performing radiologic procedures under Section 601.151 or 601.154, *including rules:*

- (1) *establishing mandatory training guidelines; and*
- (2) *requiring* ~~[shall require]~~ registered nurses performing radiologic procedures

under Section 601.151 to register with the Texas Board of Nursing and to identify the practitioner ordering the procedures.

SECTION 2.034. Subchapter F, Chapter 601, Occupations Code, is amended by adding Section 601.254 to read as follows:

Sec. 601.254. TEXAS PHYSICIAN ASSISTANT BOARD. (a) The Texas Physician Assistant Board shall adopt rules governing licensed physician assistants performing radiologic procedures under Section 601.151 or 601.154, including rules:

(1) establishing mandatory training guidelines; and

(2) requiring licensed physician assistants performing radiologic procedures under Section 601.151 to register with the Texas Physician Assistant Board and to identify the practitioner ordering the procedures.

(b) The Texas Physician Assistant Board shall notify the agency licensing the practitioner that the physician assistant has registered under this section.

SECTION 2.035. Chapter 601, Occupations Code, is amended by adding Subchapter F-1 to read as follows:

SUBCHAPTER F-1. COMPLAINTS AND INVESTIGATIVE INFORMATION

Sec. 601.271. COMPLAINT INFORMATION AND STATUS. (a) The advisory board shall maintain a system to promptly and efficiently act on complaints filed with the advisory board. The advisory board shall maintain:

(1) information about the parties to the complaint and the subject matter of the complaint;

(2) a summary of the results of the review or investigation of the complaint; and

(3) information about the disposition of the complaint.

(b) The advisory board shall make information available describing its procedures for complaint investigation and resolution.

(c) If a written complaint is filed with the advisory board relating to a certificate holder or a person approved under Section 601.054 or 601.055, the advisory board, as often as quarterly and until final determination of the action to be taken on the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an active investigation.

Sec. 601.272. CONDUCT OF INVESTIGATION. The advisory board shall complete a preliminary investigation of a complaint filed with the advisory board not later than the 45th day after the date of receiving the complaint. The advisory board shall first determine whether the person constitutes a continuing threat to the public welfare. On completion of the preliminary investigation, the advisory board shall determine whether to officially proceed on the complaint. If the advisory board fails to complete the preliminary investigation in the time required by this section, the advisory board's official investigation of the complaint is considered to commence on that date.

Sec. 601.273. ACCESS TO COMPLAINT INFORMATION. (a) Except as provided by Subsection (b), the advisory board shall provide a person who is the subject of a formal complaint filed under this chapter with access to all information in its possession that the advisory board intends to offer into evidence in presenting its case in chief at the contested hearing on the complaint, subject to any other privilege or restriction established by rule, statute, or legal precedent. The advisory board shall provide the information not later than the 30th day after receipt of a written request from the person or the person's counsel, unless good cause is shown for delay.

(b) The advisory board is not required to provide:

(1) advisory board investigative reports;

(2) investigative memoranda;

(3) the identity of a nontestifying complainant;

(4) attorney-client communications;

(5) attorney work product; or

(6) other material covered by a privilege recognized by the Texas Rules of Civil Procedure or the Texas Rules of Evidence.

(c) Providing information under this section does not constitute a waiver of privilege or confidentiality under this chapter or other law.

Sec. 601.274. **HEALTH CARE ENTITY REQUEST FOR INFORMATION.** On the written request of a health care entity, the advisory board shall provide to the entity:

(1) information about a complaint filed against a person that was resolved after investigation by:

(A) a disciplinary order of the advisory board; or

(B) an agreed settlement; and

(2) the basis of and current status of any complaint that has been referred by the executive director of the medical board for enforcement action.

Sec. 601.275. **CONFIDENTIALITY OF INVESTIGATIVE INFORMATION.** A complaint, adverse report, investigation file, other report, or other investigative information in the possession of or received or gathered by the advisory board, the medical board, or an employee or agent of the medical board relating to a certificate holder, a person approved under Section 601.054 or 601.055, an application for certification or approval, or a criminal investigation or proceeding is privileged and confidential and is not subject to discovery, subpoena, or other means of legal compulsion for release to any person other than the advisory board, the medical board, or an employee or agent of the advisory board or medical board involved in discipline under this chapter. For purposes of this section, "investigative information" includes information related to the identity of a person performing or supervising compliance monitoring for the advisory board or medical board and a report prepared by the person related to compliance monitoring.

Sec. 601.276. **PERMITTED DISCLOSURE OF INVESTIGATIVE INFORMATION.** (a) Investigative information in the possession of the advisory board, the medical board, or an employee or agent of the medical board that relates to the discipline of a certificate holder or a person approved under Section 601.054 or 601.055, may be disclosed to:

(1) a licensing authority in another state or country in which the certificate holder or person is licensed, certified, or permitted or has applied for a license, certification, or permit; or

(2) a medical peer review committee reviewing:

(A) an application for privileges; or

(B) the qualifications of the certificate holder or person with respect to retaining privileges.

(b) If investigative information in the possession of the advisory board, the medical board, or an employee or agent of the medical board indicates that a crime may have been committed, the advisory board or medical board, as appropriate, shall report the information to the proper law enforcement agency. The advisory board and medical board shall cooperate with and assist each law enforcement agency conducting a criminal investigation of a certificate holder or a person approved under Section 601.054 or 601.055 by providing information relevant to the investigation. Confidential information disclosed to a law enforcement agency under this subsection remains confidential and may not be disclosed by the law enforcement agency except as necessary to further the investigation.

SECTION 2.036. Subchapter G, Chapter 601, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

SUBCHAPTER G. CERTIFICATE DENIAL AND DISCIPLINARY ACTION

Sec. 601.301. **CERTIFICATE DENIAL AND DISCIPLINARY ACTION.** The advisory board [department] may, for a violation of this chapter or a rule adopted under this chapter:

- (1) suspend, *restrict*, revoke, or refuse to renew a certificate;
- (2) rescind approval of a curriculum, training program, or instructor;
- (3) deny an application for certification or approval;
- (4) issue a reprimand; or
- (5) place the offender's certificate on probation and require compliance with a requirement of the *advisory board* [department], including requiring the offender to:
 - (A) submit to medical or psychological treatment;
 - (B) meet additional education requirements;
 - (C) pass an examination; or
 - (D) work under the supervision of a medical radiologic technologist or other practitioner.

Sec. 601.302. **GROUND FOR CERTIFICATE DENIAL OR DISCIPLINARY ACTION.** The *advisory board* [department] may take action under Section 601.301 against a person subject to this chapter for:

- (1) obtaining or attempting to obtain a certificate issued under this chapter by bribery or fraud;
- (2) making or filing a false report or record made in the person's capacity as a medical radiologic technologist;
- (3) intentionally or negligently failing to file a report or record required by law;
- (4) intentionally obstructing or inducing another to intentionally obstruct the filing of a report or record required by law;
- (5) engaging in unprofessional conduct, including the violation of the standards of practice of radiologic technology established by the *advisory board* [department];
- (6) developing an incapacity that prevents the practice of radiologic technology with reasonable skill, competence, and safety to the public as the result of:
 - (A) an illness;
 - (B) drug or alcohol dependency; or
 - (C) another physical or mental condition or illness;
- (7) failing to report to the *advisory board* [department] the violation of this chapter by another person;
- (8) employing, for the purpose of applying ionizing radiation to a person, a person who is not certified under or in compliance with this chapter;
- (9) violating this chapter, a rule adopted under this chapter, an order of the *advisory board* [department] previously entered in a disciplinary proceeding, or an order to comply with a subpoena issued by the *advisory board* [department];
- (10) having a certificate revoked, suspended, or otherwise subjected to adverse action or being denied a certificate by another certification authority in another state, territory, or country; or
- (11) being convicted of or pleading *nolo contendere* to a crime directly related to the practice of radiologic technology.

Sec. 601.303. **STUDENT PRACTICING WITHOUT DIRECT SUPERVISION.** The *advisory board* [department] may take disciplinary action against a student for intentionally practicing radiologic technology without direct supervision.

Sec. 601.304. **ADMINISTRATIVE PROCEDURE FOR CONTESTED CASE HEARING.** For a contested case hearing in which a formal complaint has been filed under this chapter, the [The] procedure by which the *advisory board* [department] takes a disciplinary action and the procedure by which a disciplinary action is appealed are governed by:

- (1) *advisory board* [department] rules for a contested case hearing; and

(2) Chapter 2001, Government Code.

Sec. 601.305. *SURRENDER OF CERTIFICATE [REINSTATEMENT]*. (a) *The advisory board may accept the voluntary surrender of a certificate. A person who has surrendered a certificate may not engage in activities that require a certificate, and the advisory board may not return the certificate to the person, until the person demonstrates to the satisfaction of the advisory board [subject to disciplinary action under Section 601.302(6)] shall, at reasonable intervals, be given an opportunity to demonstrate* that the person is able to resume the practice of radiologic technology.

(b) *The advisory board shall by rule establish guidelines for determining when a person is competent to resume [department may not reinstate a certificate to a holder or issue a certificate to an applicant previously denied a certificate unless the department is satisfied that the holder or applicant has complied with requirements set by the department and is capable of engaging in] the practice of radiologic technology.*

Sec. 601.306. *EMERGENCY SUSPENSION*. (a) *The presiding officer of the advisory board shall appoint a three-member disciplinary panel consisting of advisory board members to determine whether a certificate should be temporarily suspended.*

(a-1) *The disciplinary panel [department] shall temporarily suspend the certificate of a certificate holder if the panel [department] determines from the evidence or information presented to it that continued practice by the certificate holder would constitute a continuing [and imminent] threat to the public welfare.*

(b) *A certificate may be suspended under this section without notice or hearing on the complaint if:*

(1) *action is taken to initiate proceedings for a hearing before the advisory board [State Office of Administrative Hearings] simultaneously with the temporary suspension; and*

(2) *a hearing is held as soon as practicable under this chapter and Chapter 2001, Government Code.*

(c) *Notwithstanding Chapter 551, Government Code, the disciplinary panel may hold a meeting by telephone conference call if immediate action is required and convening of the panel at one location is inconvenient for any member of the panel [The State Office of Administrative Hearings shall hold a preliminary hearing not later than the 14th day after the date of the temporary suspension to determine if there is probable cause to believe that a continuing and imminent threat to the public welfare still exists. A final hearing on the matter shall be held not later than the 61st day after the date of the temporary suspension].*

Sec. 601.307. *DELEGATION OF CERTAIN COMPLAINT DISPOSITIONS*. (a) *The advisory board may delegate to a committee of medical board employees the authority to dismiss or enter into an agreed settlement of a complaint that does not relate directly to patient care or that involves only administrative violations. The disposition determined by the committee must be approved by the advisory board at a public meeting.*

(b) *A complaint delegated under this section shall be referred for an informal proceeding under Section 601.311 if:*

(1) *the committee of employees determines that the complaint should not be dismissed or settled;*

(2) *the committee is unable to reach an agreed settlement; or*

(3) *the affected person requests that the complaint be referred for an informal proceeding.*

Sec. 601.308. *SUBPOENA*. (a) *The executive director of the medical board, the director's designee, or the secretary-treasurer of the medical board may issue a subpoena or subpoena duces tecum for the advisory board:*

(1) *to conduct an investigation or a contested proceeding related to:*

(A) *alleged misconduct by a certificate holder or a person approved under Section 601.054 or 601.055;*

(B) *an alleged violation of this chapter or other law related to radiologic technology; or*

(C) *the provision of health care under this chapter; or*

(2) *for purposes of determining whether to issue, suspend, restrict, or revoke a certificate or approval under this chapter.*

(b) *Failure to timely comply with a subpoena issued under this section is a ground for:*

(1) *disciplinary action by the advisory board or another licensing or regulatory agency with jurisdiction over the person subject to the subpoena; and*

(2) *denial of an application for certification or approval.*

Sec. 601.309. PROTECTION OF PATIENT IDENTITY. *In a disciplinary investigation or proceeding conducted under this chapter, the advisory board shall protect the identity of each patient whose medical records are examined and used in a public proceeding unless the patient:*

(1) *testifies in the public proceeding; or*

(2) *submits a written release in regard to the patient's records or identity.*

Sec. 601.310. REQUIRED SUSPENSION OF LICENSE OF INCARCERATED CERTIFICATE HOLDER. *Regardless of the offense, the advisory board shall suspend the certificate or approval of a person serving a prison term in a state or federal penitentiary during the term of the incarceration.*

Sec. 601.311. INFORMAL PROCEEDINGS. (a) *The advisory board by rule shall adopt procedures governing:*

(1) *informal disposition of a contested case under Section 2001.056, Government Code; and*

(2) *informal proceedings held in compliance with Section 2001.054, Government Code.*

(b) *Rules adopted under this section must require that:*

(1) *an informal meeting in compliance with Section 2001.054, Government Code, be scheduled and the advisory board give notice to the person who is the subject of a complaint of the time and place of the meeting not later than the 45th day before the date the meeting is held;*

(2) *the complainant and the person who is the subject of the complaint be provided an opportunity to be heard;*

(3) *at least one of the advisory board members participating in the informal meeting as a panelist be a member who represents the public;*

(4) *a member of the medical board's staff be at the meeting to present to the advisory board's representative the facts the staff reasonably believes it could prove by competent evidence or qualified witnesses at a hearing; and*

(5) *the advisory board's legal counsel or a representative of the attorney general be present to advise the advisory board or the medical board's staff.*

(c) *The person who is the subject of the complaint is entitled to:*

(1) *reply to the staff's presentation; and*

(2) *present the facts the person reasonably believes the person could prove by competent evidence or qualified witnesses at a hearing.*

(d) *After ample time is given for the presentations, the advisory board representative shall recommend that the investigation be closed or shall attempt to mediate the disputed matters and make a recommendation regarding the disposition of the case in the absence of a hearing under applicable law concerning contested cases.*

(e) *If the person who is the subject of the complaint has previously been the subject of disciplinary action by the advisory board, the advisory board shall schedule the informal meeting as soon as practicable.*

(f) Section 601.275 applies to an investigation file and investigative information in the possession of or used by the advisory board in an informal proceeding under this section.

Sec. 601.312. ADVISORY BOARD REPRESENTATION IN INFORMAL PROCEEDINGS. *(a) In an informal meeting under Section 601.311, at least two panelists shall be appointed to determine whether an informal disposition is appropriate.*

(b) Notwithstanding Subsection (a) and Section 601.311(b)(3), an informal proceeding may be conducted by one panelist if the person who is the subject of the complaint waives the requirement that at least two panelists conduct the informal proceeding. If the person waives that requirement, the panelist may be any member of the advisory board.

(c) Except as provided by Subsection (d), the panel requirements described by Subsections (a) and (b) apply to an informal proceeding conducted by the advisory board under Section 601.311, including a proceeding to:

- (1) consider a disciplinary case to determine if a violation has occurred; or*
- (2) request modification or termination of an order.*

(d) The panel requirements described by Subsections (a) and (b) do not apply to an informal proceeding conducted by the advisory board under Section 601.311 to show compliance with an order of the advisory board.

Sec. 601.313. ROLES AND RESPONSIBILITIES OF PARTICIPANTS IN INFORMAL PROCEEDINGS. *(a) An advisory board member who serves as a panelist at an informal meeting under Section 601.311 shall make recommendations for the disposition of a complaint or allegation. The member may request the assistance of a medical board employee at any time.*

(b) Medical board employees shall present a summary of the allegations against the person who is the subject of the complaint and of the facts pertaining to the allegation that the employees reasonably believe may be proven by competent evidence at a formal hearing.

(c) An attorney for the advisory board or medical board shall act as counsel to the panel and, notwithstanding Subsection (e), shall be present during the informal meeting and the panel's deliberations to advise the panel on legal issues that arise during the proceeding. The attorney may ask questions of a participant in the informal meeting to clarify any statement made by the participant. The attorney shall provide to the panel a historical perspective on comparable cases that have appeared before the advisory board or medical board, keep the proceedings focused on the case being discussed, and ensure that the medical board's employees and the person who is the subject of the complaint have an opportunity to present information related to the case. During the panel's deliberations, the attorney may be present only to advise the panel on legal issues and to provide information on comparable cases that have appeared before the advisory board or medical board.

(d) The panel and medical board employees shall provide an opportunity for the person who is the subject of the complaint and the person's authorized representative to reply to the medical board employees' presentation and to present oral and written statements and facts that the person and representative reasonably believe could be proven by competent evidence at a formal hearing.

(e) An employee of the medical board who participated in the presentation of the allegation or information gathered in the investigation of the complaint, the person who is the subject of the complaint, the person's authorized representative, the complainant, the witnesses, and members of the public may not be present during the deliberations of the panel. Only the members of the panel and the attorney serving as counsel to the panel may be present during the deliberations.

(f) The panel shall recommend the dismissal of the complaint or allegations or, if the panel determines that the person has violated a statute or advisory board rule, the panel may recommend advisory board action and terms for an informal settlement of the case.

(g) The panel's recommendations under Subsection (f) must be made in a written order and presented to the affected person and the person's authorized representative. The

person may accept the proposed settlement within the time established by the panel at the informal meeting. If the person rejects the proposed settlement or does not act within the required time, the advisory board may proceed with the filing of a formal complaint with the State Office of Administrative Hearings.

Sec. 601.314. LIMIT ON ACCESS TO INVESTIGATION FILES. The advisory board shall prohibit or limit access to an investigation file relating to a person subject to an informal proceeding in the manner provided by Sections 164.007(c) and 601.275.

Sec. 601.315. REFUND. (a) Subject to Subsection (b), the advisory board may order a certificate holder to pay a refund to a consumer as provided in an agreement resulting from an informal settlement conference instead of or in addition to imposing an administrative penalty under Subchapter H.

(b) The amount of a refund ordered as provided in an agreement resulting from an informal settlement conference may not exceed the amount the consumer paid to the certificate holder for a service regulated by this chapter. The advisory board may not require payment of other damages or estimate harm in a refund order.

Sec. 601.316. EXPERT IMMUNITY. An expert who assists the advisory board is immune from suit and judgment and may not be subjected to a suit for damages for any investigation, report, recommendation, statement, evaluation, finding, or other action taken in the course of assisting the advisory board in a disciplinary proceeding. The attorney general shall represent the expert in any suit resulting from a service provided by the person in good faith to the advisory board.

SECTION 2.037. Section 601.351, Occupations Code, is amended to read as follows:

Sec. 601.351. IMPOSITION OF PENALTY. The *advisory board* [department] may impose an administrative penalty against a person who violates this chapter or a rule adopted under this chapter.

SECTION 2.038. Section 601.353(a), Occupations Code, is amended to read as follows:

(a) If, after investigating a possible violation and the facts surrounding that possible violation, the *advisory board* [department] determines that a violation occurred, the *advisory board* [department] shall give written notice of the violation to the person alleged to have committed the violation.

SECTION 2.039. Section 601.354, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 601.354. PENALTY TO BE PAID OR HEARING REQUESTED. (a) Not later than the 20th day after the date the person receives the notice, the person may:

(1) accept the [department's] determination, including the proposed administrative penalty; or

(2) make a written request for a hearing on that determination.

(b) If the person accepts the [department's] determination, the *advisory board* [department] by order shall approve the determination and impose the proposed penalty.

SECTION 2.040. Section 601.355, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 601.355. HEARING. (a) If the person timely requests a hearing, the *advisory board* [department] shall:

(1) set a hearing;

(2) give written notice of the hearing to the person; and

(3) designate a hearings examiner to conduct the hearing.

(b) The hearings examiner shall make findings of fact and conclusions of law and promptly issue to the *advisory board* [department] a proposal for decision as to the occurrence of the violation and the amount of any proposed administrative penalty.

SECTION 2.041. Section 601.356, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 601.356. DECISION BY *ADVISORY BOARD* ~~[DEPARTMENT]~~. (a) Based on the findings of fact and conclusions of law and the recommendations of the hearings examiner, the *advisory board* ~~[department]~~ by order may determine that:

- (1) a violation has occurred and may impose an administrative penalty; or
- (2) a violation did not occur.

(b) The *advisory board* ~~[department]~~ shall give notice of the order to the person. The notice must include:

- (1) separate statements of the findings of fact and conclusions of law;
- (2) the amount of any penalty imposed; and
- (3) a statement of the right of the person to judicial review of the order.

SECTION 2.042. Sections 601.357(b) and (c), Occupations Code, are amended to read as follows:

(b) Within the 30-day period, a person who acts under Subsection (a)(3) may:

(1) stay enforcement of the penalty by:

- (A) paying the penalty to the court for placement in an escrow account; or
- (B) giving to the court a supersedeas bond that is approved by the court for the amount of the penalty and that is effective until all judicial review of the order is final; or

(2) request the court to stay enforcement of the penalty by:

- (A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the penalty and is financially unable to give the supersedeas bond; and

- (B) giving a copy of the affidavit to the *advisory board* ~~[department]~~ by certified mail.

(c) If the *advisory board* ~~[department]~~ receives a copy of an affidavit as provided by Subsection (b)(2), the *advisory board* ~~[department]~~ may file with the court a contest to the affidavit not later than the fifth day after the date the copy is received.

SECTION 2.043. Section 601.358, Occupations Code, is amended to read as follows:

Sec. 601.358. COLLECTION OF PENALTY. If the person does not pay the administrative penalty and the enforcement of the penalty is not stayed, the *advisory board* ~~[department]~~ may refer the matter to the attorney general for collection.

SECTION 2.044. Section 601.360(a), Occupations Code, is amended to read as follows:

(a) If, after judicial review, the administrative penalty is reduced or not imposed by the court, the court shall, after the judgment becomes final:

(1) order the appropriate amount, plus accrued interest, be remitted to the person by the *advisory board* ~~[department]~~ if the person paid the penalty under Section 601.357(a)(2); or

(2) if the person paid the penalty under Section 601.357(b)(1)(A) or posted a supersedeas bond, order the *advisory board* ~~[department]~~ to:

- (A) execute a complete release of the escrow account or bond, as appropriate, if the penalty is not imposed; or

- (B) release the escrow account or bond, as appropriate, after the reduced penalty has been paid from the account or by the person.

SECTION 2.045. Section 601.361, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 601.361. EXPENSES AND COSTS. (a) In this section, "reasonable expenses and costs" includes expenses incurred by the *advisory board* ~~[department]~~ and the attorney general in the investigation, initiation, or prosecution of an action, including reasonable investigative costs, court costs, attorney's fees, witness fees, and deposition expenses.

(b) The *advisory board* [department] may assess reasonable expenses and costs against a person in an administrative hearing if, as a result of the hearing, an administrative penalty is assessed against the person. The person shall pay expenses and costs assessed under this subsection not later than the 30th day after the date the order of the *advisory board* [department] requiring the payment of expenses and costs is final. The *advisory board* [department] may refer the matter to the attorney general for collection of the expenses and costs.

(c) If the attorney general brings an action against a person to enforce an administrative penalty assessed under this chapter and the person is found liable for an administrative penalty, the attorney general may recover, on behalf of the attorney general and the *advisory board* [department], reasonable expenses and costs.

SECTION 2.046. Sections 601.401(a) and (c), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, are amended to read as follows:

(a) If it appears that a person has violated, is violating, or is threatening to violate this chapter or a rule adopted under this chapter, the *advisory board* [department] may bring an action to enjoin the continued or threatened violation.

(c) At the request of the *advisory board* [department], the attorney general shall bring an action in the name of the state for the injunctive relief, to recover the civil penalty, or both.

SECTION 2.047. Section 601.402(a), Occupations Code, is amended to read as follows:

(a) A person who is required to be certified under this chapter commits an offense if the person:

(1) knowingly administers a radiologic procedure to another person without holding a valid certificate issued by the *advisory board* [department];

(2) practices radiologic technology without holding a certificate under this chapter;

(3) uses or attempts to use a suspended or revoked certificate;

(4) knowingly allows a student enrolled in an education program to perform a radiologic procedure without direct supervision;

(5) obtains or attempts to obtain a certificate through bribery or fraudulent misrepresentation;

(6) uses the title or name “certified medical radiologic technologist” or any other name or title that implies the person is certified to practice radiologic technology, unless the person is certified under this chapter;

(7) knowingly conceals information relating to enforcement of this chapter or a rule adopted under this chapter; or

(8) employs a person not certified by or in compliance with this chapter for the purpose of applying ionizing radiation to a person.

SECTION 2.048. Section 602.002, Occupations Code, is amended by amending Subdivision (1), as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, amending Subdivision (4), and adding Subdivision (5–a) to read as follows:

(1) “*Advisory committee*” [~~“Board”~~] means the *Medical Physicist* [~~Texas Board of Licensure Advisory Committee~~ [~~for Professional Medical Physicists~~].

(4) “*License*” means a certificate issued by the *medical board* that authorizes the holder to engage in the practice of medical physics.

(5–a) “*Medical board*” means the *Texas Medical Board*.

SECTION 2.049. The heading to Subchapter B, Chapter 602, Occupations Code, is amended to read as follows:

SUBCHAPTER B. *MEDICAL PHYSICIST* [~~TEXAS BOARD OF~~
LICENSURE ADVISORY COMMITTEE [~~FOR PROFESSIONAL MEDICAL~~
PHYSICISTS]

SECTION 2.050. Section 602.051, Occupations Code, is amended to read as follows:

Sec. 602.051. *ADVISORY COMMITTEE* [BOARD]. (a) The *advisory committee* [Texas Board of Licensure for Professional Medical Physicists] is an informal advisory committee to the medical board and is not subject to Chapter 2110, Government Code [the division of the department responsible for regulating the practice of medical physics].

(b) The advisory committee has no independent rulemaking authority.

SECTION 2.051. The heading to Section 602.052, Occupations Code, is amended to read as follows:

Sec. 602.052. *APPOINTMENT OF ADVISORY COMMITTEE* [BOARD MEMBERS].

SECTION 2.052. Sections 602.052(a) and (d), Occupations Code, are amended to read as follows:

(a) The *advisory committee* [board] consists of seven [nine] members appointed by the president of the medical board [governor with the advice and consent of the senate] as follows:

(1) four [five licensed] medical physicists licensed in this state who each have at least five years of experience as a medical physicist[, with at least one board certified representative of each of the following specialties:

[A] diagnostic radiological physics;

[B] medical health physics;

[C] medical nuclear physics; and

[D] therapeutic radiological physics];

(2) two [three] physicians licensed in this state who each have at least five years of clinical experience related to medical physics[, with a board certified representative of each of the following specialties:

[A] diagnostic radiology;

[B] nuclear medicine; and

[C] radiation therapy]; and

(3) one member who represents the public.

(d) Appointments to the *advisory committee* [board] shall be made without regard to the race, color, disability, creed, sex, religion, age, or national origin of the appointee.

SECTION 2.053. The heading to Section 602.053, Occupations Code, is amended to read as follows:

Sec. 602.053. *PUBLIC MEMBER* [BOARD MEMBERSHIP;] ELIGIBILITY.

SECTION 2.054. Section 602.053(d), Occupations Code, is amended to read as follows:

(d) An *advisory committee* [A public board] member representing the public must be a resident of this [the] state for a period of not less than four years preceding appointment. A person may not be a [public] member of the *advisory committee representing the public* [board] if the person or the person's spouse:

(1) is registered, certified, or licensed by a regulatory agency in a *health care profession* [the field of medical physics];

(2) is employed by or participates in the management of a business entity or other organization regulated by or receiving money from the *medical board*;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the *medical board*; or

(4) uses or receives a substantial amount of tangible goods, services, or money from the *medical board* other than compensation or reimbursement authorized by law for *medical board membership, attendance, or expenses*.

SECTION 2.055. Sections 602.054(b) and (c), Occupations Code, are amended to read as follows:

(b) A person may not be a member of the *advisory committee* [board] if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of medicine; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of medicine.

(c) A person may not serve as a member of the *advisory committee* [board] if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the *advisory committee or medical board*.

SECTION 2.056. Section 602.055, Occupations Code, is amended to read as follows:

Sec. 602.055. TERMS; VACANCY. (a) Members of the *advisory committee* [board] serve *two-year* [staggered six-year] terms. The terms of the [three] members expire on February 1 of each odd-numbered year.

(b) A person is not eligible to serve more than *two* [one] consecutive *full terms* [six-year term]. [A person may serve consecutively one six-year term and a shorter term that arises because of filling an unexpired vacancy.]

(c) If a vacancy occurs *during a member's term* [on the board], the *president of the medical board* [governor] shall appoint a person to serve for the unexpired term.

SECTION 2.057. Sections 602.056(a) and (b), Occupations Code, are amended to read as follows:

(a) It is a ground for removal from the *advisory committee* [board] that a member:

(1) does not have at the time of appointment the qualifications required by Section 602.052 [602.053] for appointment to the *advisory committee* [board];

(2) does not maintain during service on the *advisory committee* [board] the qualifications required by Section 602.052 [602.053] for appointment to the *advisory committee* [board];

(3) is ineligible for membership under Section 602.053(d) or Section 602.054; or

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

[5] does not attend at least half of the regularly scheduled board meetings held in a calendar year, excluding meetings held while the person was not a board member, without an excuse approved by the board].

(b) The validity of an [A board] action of the *advisory committee* is not affected by the fact that it is taken while a ground for removal of a member of the *advisory committee* [board] exists [is not invalid for that reason].

SECTION 2.058. Section 602.057, Occupations Code, is amended to read as follows:

Sec. 602.057. COMPENSATION. A member of the *advisory committee* [board] is entitled to a per diem in an amount set by the legislature for each day that the member engages in the business of the *advisory committee* [board].

SECTION 2.059. Section 602.058, Occupations Code, is amended to read as follows:

Sec. 602.058. ADVISORY COMMITTEE [BOARD] OFFICERS; MEETINGS. (a) The *president of the medical board* [governor] shall biennially designate a member of the *advisory committee* [board] as the presiding officer of the *advisory committee* [board] to serve in that capacity at the will of the *president* [governor]. The *advisory committee* may [At the first regularly scheduled meeting of each calendar year, the board shall] elect from its members *additional officers as necessary* [an assistant presiding officer].

(b) The *advisory committee* [board] shall *meet as requested by the medical board*. A meeting may be held by telephone conference call [hold a meeting at least once a year and at other times in accordance with board rule].

(c) Except as otherwise provided by this chapter, the *advisory committee* is subject to Chapters 551, 552, and 2001, Government Code.

(d) A majority of the advisory committee members constitutes a quorum for all purposes except when advisory committee members are participating in a proceeding of the medical board as described by Section 602.151(b).

SECTION 2.060. The heading to Subchapter D, Chapter 602, Occupations Code, is amended to read as follows:

SUBCHAPTER D. *MEDICAL BOARD POWERS AND DUTIES*

SECTION 2.061. Section 602.151, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 602.151. GENERAL POWERS AND DUTIES. (a) The *medical board* shall:

(1) adopt ~~[and revise, with the approval of the executive commissioner of the Health and Human Services Commission,]~~ rules reasonably necessary to properly perform its duties under this chapter, *including:*

(A) procedural rules governing investigations, informal hearings, the issuance of cease and desist orders, and disciplinary sanctions; and

(B) rules governing character and conduct for applicants or license holders and fitness to practice medical physics in this state;

(2) establish ~~[adopt an official seal;~~

~~[(3) determine the]~~ qualifications for a medical physicist to practice in this state and the fitness of each applicant for a license or license renewal;

(3) establish minimum education and training requirements necessary for a license under this chapter;

(4) establish requirements for ~~[charge a fee for processing and issuing or renewing a license;~~

~~[(5) conduct]~~ examinations for licensure;

(5) prescribe the application form for a license under this chapter;

(6) issue, deny, renew, revoke, cancel, restrict, ~~[and]~~ suspend, or accept the surrender of a license ~~[licenses];~~

(7) charge fees that are reasonable and necessary to cover the costs of administering this chapter ~~[adopt and publish a code of ethics]; [and]~~

(8) conduct informal hearings ~~[on complaints]~~ concerning violations of this chapter or rules adopted under this chapter;

(9) issue disciplinary sanctions, including agreed orders and non-disciplinary remedial plans; and

(10) establish procedures for making a confidential referral to the Texas Physician Health Program established under Chapter 167, and for requiring participation in the program as a prerequisite for issuing or maintaining a license under this chapter.

(b) The *medical board* may include any member of the advisory committee in a proceeding of the medical board related to a power or duty described by Subsection (a) if the medical board considers the expertise of the advisory committee member to be beneficial in the proceeding.

SECTION 2.062. Section 602.152, Occupations Code, is amended to read as follows:

Sec. 602.152. CONSUMER INTEREST INFORMATION; COMPLAINTS. (a) The *medical board* shall prepare information of consumer interest describing the regulatory functions of the *medical board* and the procedures by which complaints are filed with and resolved by the *medical board*.

(b) The *medical board* shall maintain a file on each written complaint filed with the *medical board*. The file must include:

(1) the name of the person who filed the complaint;

(2) the date the complaint is received by the *medical board*;

- (3) the subject matter of the complaint;
- (4) the name of each person contacted in relation to the complaint;
- (5) a summary of the results of the review or investigation of the complaint; and
- (6) an explanation of the reason the file was closed, if the *medical* board closed the file without taking action other than to investigate the complaint.

(c) The *medical* board shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the *medical* board's policies and procedures relating to complaint investigation and resolution.

(d) The *medical* board, at least quarterly until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

SECTION 2.063. Section 602.1521, Occupations Code, is amended to read as follows:

Sec. 602.1521. PUBLIC PARTICIPATION. The *medical* board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the *medical* board and to speak on any issue relating to medical physicists ~~[under the jurisdiction of the board]~~.

SECTION 2.064. The heading to Section 602.1525, Occupations Code, is amended to read as follows:

Sec. 602.1525. SUBPOENAS; CONFIDENTIALITY OF INFORMATION.

SECTION 2.065. Section 602.1525, Occupations Code, is amended by amending Subsection (a), as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, amending Subsections (h) and (i), and adding Subsection (a-1) to read as follows:

(a) ~~The executive director of the medical board, the director's designee, or the secretary-treasurer of the medical board may issue [In an investigation of a complaint filed with the board, the board may request that the commissioner or the commissioner's designee approve the issuance of]~~ a subpoena or subpoena duces tecum:

(1) to conduct an investigation or a contested case proceeding related to:

(A) alleged misconduct by a medical physicist;

(B) an alleged violation of this chapter or another law related to the practice of medical physics; or

(C) the provision of health care under this chapter; or

(2) for purposes of determining whether to issue, suspend, restrict, or revoke a license under this chapter~~[-If the request is approved, the board may issue a subpoena to compel the attendance of a relevant witness or the production, for inspection or copying, of relevant evidence that is in this state].~~

(a-1) Failure to timely comply with a subpoena issued under this section is a ground for:

(1) disciplinary action by the medical board or another licensing or regulatory agency with jurisdiction over the person subject to the subpoena; and

(2) denial of a license application.

(h) All information and materials subpoenaed or compiled by the *medical* board in connection with a complaint and investigation are confidential and not subject to disclosure under Chapter 552, Government Code, and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release to anyone other than the *medical* board or its agents or employees who are involved in discipline of the holder of a license, except that this information may be disclosed to:

(1) persons involved with the *medical* board in a disciplinary action against the holder of a license;

(2) professional medical physics licensing or disciplinary boards in other jurisdictions;

(3) peer assistance programs approved by the *medical* board under Chapter 467, Health and Safety Code;

(4) law enforcement agencies; and

(5) persons engaged in bona fide research, if all individual-identifying information has been deleted.

(i) The filing of formal charges by the *medical* board against a holder of a license, the nature of those charges, disciplinary proceedings of the *medical* board, and final disciplinary actions, including warnings and reprimands, by the *medical* board are not confidential and are subject to disclosure in accordance with Chapter 552, Government Code.

SECTION 2.066. Section 602.153, Occupations Code, is amended to read as follows:

Sec. 602.153. CONTINUING EDUCATION. The *medical* board shall recognize, prepare, or administer continuing education programs for persons licensed *under this chapter* ~~[by the board]~~. A license holder must participate in the programs to the extent required by the *medical* board to keep the person's license.

SECTION 2.067. Section 602.154, Occupations Code, is amended to read as follows:

Sec. 602.154. RULES RELATING TO ADVERTISING OR COMPETITIVE BIDDING.

(a) The *medical* board may not adopt rules restricting advertising or competitive bidding by a license holder except to prohibit false, misleading, or deceptive practices.

(b) In its rules to prohibit false, misleading, or deceptive practices, the *medical* board may not include a rule that:

(1) restricts the use of any medium for advertising;

(2) restricts the use of a license holder's personal appearance or voice in an advertisement;

(3) relates to the size or duration of an advertisement by the license holder; or

(4) restricts the license holder's advertisement under a trade name.

SECTION 2.068. Subchapter D, Chapter 602, Occupations Code, is amended by adding Section 602.156 to read as follows:

Sec. 602.156. RULES ON CONSEQUENCES OF CRIMINAL CONVICTION. *The medical board shall adopt rules and guidelines as necessary to comply with Chapter 53, except to the extent the requirements of this chapter are stricter than the requirements of Chapter 53.*

SECTION 2.069. Section 602.203, Occupations Code, is amended to read as follows:

Sec. 602.203. LICENSE APPLICATION. (a) A person may apply for a license by filing an application with the *medical* board.

(b) An application must be on a form prescribed by the *medical* board and must include:

(1) evidence of relevant work experience, including a description of the duties performed;

(2) an official transcript from the college or university granting the applicant's degree;

(3) a statement of the medical physics specialty for which the application is submitted;

(4) three professional references; and

(5) any additional information required by *medical* board rule.

(c) The applicant must submit with the application the fee prescribed by the *medical* board.

(d) The *medical* board ~~[or the executive secretary]~~ may require an applicant to appear before the *medical* board ~~[or secretary]~~ to present additional information in support of the application.

SECTION 2.070. Section 602.205, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 602.205. TEMPORARY LICENSE. The *medical* board may issue a temporary license to an applicant who has satisfied the educational requirements for a license but who has not yet completed the experience and examination requirements of Section 602.207. A temporary license is valid for one year from the date of issuance.

SECTION 2.071. Section 602.206(a), Occupations Code, is amended to read as follows:

(a) The *medical* board shall administer a written examination for a license to qualified applicants at least two times each year.

SECTION 2.072. Section 602.207(a), Occupations Code, is amended to read as follows:

(a) To be eligible to take an examination for a license, an applicant must:

(1) have a master's or doctoral degree from an accredited college or university that signifies the completion of courses approved by the *medical* board in physics, medical physics, biophysics, radiological physics, medical health physics, or equivalent courses;

(2) have demonstrated, to the *medical* board's satisfaction, completion of at least two years of full-time work experience in the five years preceding the date of application in the medical physics specialty for which application is made; and

(3) submit a completed application as required by Section 602.203.

SECTION 2.073. Section 602.208, Occupations Code, is amended to read as follows:

Sec. 602.208. EXAMINATION RESULTS; REEXAMINATION. (a) The *medical* board shall notify each examinee of the results of the examination not later than the 30th day after the date the examination is administered. If an examination is graded or reviewed by a national or state testing service, the *medical* board shall notify each examinee of the results of the examination not later than the 14th day after the date the *medical* board receives the results from the testing service.

(b) If the *medical* board learns that the notice of the examination results will be delayed for more than 90 days after the examination date, the *medical* board shall notify each examinee of the reason for the delay not later than the 90th day.

(c) If requested by a person who fails the examination, the *medical* board shall provide to the person an analysis of the person's performance on the examination.

(d) The *medical* board by rule shall establish procedures and requirements for reexamination of an applicant who fails the examination.

SECTION 2.074. Subchapter E, Chapter 602, Occupations Code, is amended by adding Section 602.2081 to read as follows:

Sec. 602.2081. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR LICENSE. (a) The *medical* board shall require that an applicant for a license submit a complete and legible set of fingerprints, on a form prescribed by the *medical* board, to the *medical* board or to the Department of Public Safety for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation.

(b) The *medical* board may not issue a license to a person who does not comply with the requirement of Subsection (a).

(c) The *medical* board shall conduct a criminal history check of each applicant for a license using information:

(1) provided by the individual under this section; and

(2) made available to the *medical* board by the Department of Public Safety, the Federal Bureau of Investigation, and any other criminal justice agency under Chapter 411, Government Code.

(d) The *medical* board may:

(1) enter into an agreement with the Department of Public Safety to administer a criminal history check required under this section; and

(2) *authorize the Department of Public Safety to collect from each applicant the costs incurred by the Department of Public Safety in conducting the criminal history check.*

SECTION 2.075. Sections 602.209(a), (b), (c), and (e), Occupations Code, are amended to read as follows:

(a) The *medical* board may issue a license to an eligible applicant who:

- (1) passes the examination under Section 602.206; and
- (2) meets all other license requirements.

(b) Not later than the 30th day after the date the *medical* board makes a decision on an application submitted under Section 602.203, the *medical* board shall notify the applicant of the decision.

(c) If the *medical* board approves the application, the *medical* board shall issue a license to the applicant. If the *medical* board denies the application, the *medical* board shall include in the notice of decision a description of the areas of deficiency.

(e) A license certificate is the *medical* board's property and must be surrendered on demand.

SECTION 2.076. Section 602.210, Occupations Code, is amended by amending Subsections (b), (c), (d), (e), and (f) and adding Subsection (g) to read as follows:

(b) The *medical* board by rule may adopt a system under which licenses expire on various dates during the year.

(c) A person may renew an unexpired license by paying the required renewal fee to the *medical* board before the expiration date of the license.

(d) If a person's license has been expired for 90 days or less, the person may renew the license by paying to the *medical* board the required renewal fee and a penalty fee in an amount equal to one-half of the amount of the renewal fee.

(e) If a person's license has been expired for longer than 90 days but less than *one year* [~~two years~~], the person may renew the license by paying to the *medical* board the renewal fee that was due at expiration and a penalty fee in an amount equal to the amount of the renewal fee.

(f) If a person's license has been expired for *one year* [~~two years~~] or longer, the person may not renew the license. To obtain a new license, a person must comply with the *requirements and procedures for obtaining an original license, including the examination requirement* [~~application requirements of this chapter and must submit to the board:~~

- ~~[(1) a supplemental experience record as required by the board;~~
- ~~[(2) a description of professional activities undertaken during the expiration period;~~
- ~~[(3) a list of current professional references; and~~
- ~~[(4) a transcript for any degree or college credit earned since the person's previous license application].~~

(g) *Not later than the 30th day before the date a person's license expires, the medical board shall send written notice of the impending license expiration to the person at the license holder's last known address according to the records of the medical board.*

SECTION 2.077. Subchapter E, Chapter 602, Occupations Code, is amended by adding Section 602.2101 to read as follows:

Sec. 602.2101. **CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR RENEWAL.** (a) *An applicant renewing a license shall submit a complete and legible set of fingerprints for purposes of performing a criminal history check of the applicant as provided by Section 602.2081.*

(b) *The medical board may not renew the license of a person who does not comply with the requirement of Subsection (a).*

(c) *A license holder is not required to submit fingerprints under this section for the renewal of the license if the license holder has previously submitted fingerprints under:*

- (1) *Section 602.2081 for the initial issuance of the license; or*
- (2) *this section as part of a prior renewal of the license.*

SECTION 2.078. Section 602.211, Occupations Code, is amended to read as follows:

Sec. 602.211. LICENSE BY ENDORSEMENT OR RECIPROCITY. (a) On receipt of an application and fee under Section 602.203, the *medical* board may waive any prerequisite for obtaining a license to a person who holds a license to practice medical or radiological physics in another state, territory, or jurisdiction acceptable to the *medical* board that has requirements for the licensing of medical or radiological physicists that are substantially the same as the requirements of this chapter.

(b) The *medical* board may waive any prerequisite for obtaining a license to practice medical physics in this state for an applicant who holds a license issued by another jurisdiction with which this state has a reciprocity agreement. The *medical* board may make an agreement, subject to the approval of the governor, with another state to allow for licensing by reciprocity.

SECTION 2.079. Section 602.212, Occupations Code, is amended to read as follows:

Sec. 602.212. LICENSE HOLDER DUTIES. A license holder shall:

- (1) publicly display the license holder's license in an appropriate manner; and
- (2) report immediately to the *medical* board any change in the license holder's address.

SECTION 2.080. Section 602.213, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 602.213. PROVISIONAL LICENSE. (a) The *medical* board may issue a provisional license to an applicant currently licensed or certified in another jurisdiction who seeks a license in this state and who:

- (1) has been licensed or certified in good standing as a practitioner of medical or radiologic physics for at least two years in another jurisdiction, including a foreign country, that has licensing or certification requirements substantially equivalent to the requirements of this chapter;
- (2) has passed a national or other examination recognized by the *medical* board relating to the practice of medical or radiologic physics; and
- (3) is sponsored by a person licensed by the *medical* board under this chapter with whom the provisional license holder will practice during the time the person holds a provisional license.

(b) The *medical* board may waive the requirement of Subsection (a)(3) for an applicant if the *medical* board determines that compliance with that subsection would be a hardship to the applicant.

(c) A provisional license is valid until the date the *medical* board approves or denies the provisional license holder's application for a license. The *medical* board shall issue a license under this chapter to the provisional license holder if:

- (1) the provisional license holder is eligible to be certified under Section 602.211; or
- (2) the provisional license holder passes the part of the examination under Section 602.206 that relates to the applicant's knowledge and understanding of the laws and rules relating to the practice of medical physics in this state and:
 - (A) the *medical* board verifies that the provisional license holder meets the academic and experience requirements for a license under this chapter; and
 - (B) the provisional license holder satisfies any other licensing requirements under this chapter.

(d) The *medical* board must approve or deny a provisional license holder's application for a license not later than the 180th day after the date the provisional license is issued. The *medical* board may extend the 180-day period if the results of an examination have not been received by the *medical* board before the end of that period.

(e) The *medical* board may establish a fee for provisional licenses.

SECTION 2.081. Section 602.251, Occupations Code, is amended to read as follows:

Sec. 602.251. **GROUND FOR LICENSE DENIAL OR DISCIPLINARY ACTION.** The *medical* board may ~~shall~~ refuse to issue or renew a license, suspend, *restrict*, or revoke a license, or reprimand a license holder for:

(1) obtaining or renewing a license by means of fraud, misrepresentation, or concealment of a material fact;

(2) having previously applied for or held a license issued by the licensing authority of another state, territory, or jurisdiction that was denied, suspended, or revoked by that licensing authority;

(3) engaging in unprofessional conduct that endangered or is likely to endanger the health, safety, or welfare of the public as defined by *medical* board rule;

(4) violating this chapter, a lawful order or rule of the *medical* board, or the *medical* board's code of ethics; or

(5) being convicted of:

(A) a felony; or

(B) a misdemeanor involving moral turpitude or that directly relates to the person's duties as a licensed medical physicist.

SECTION 2.082. Section 602.252, Occupations Code, is amended to read as follows:

Sec. 602.252. **ADMINISTRATIVE PROCEDURE FOR CONTESTED CASE HEARING.** Chapter ~~[Chapters]~~ 2001 ~~[and 2002]~~, Government Code, and *medical* board rules for a contested case hearing apply to a proceeding by the *medical* board under this chapter in which a formal complaint has been filed ~~[subchapter]~~.

SECTION 2.083. Subchapter F, Chapter 602, Occupations Code, is amended by adding Section 602.2521 to read as follows:

Sec. 602.2521. **INFORMAL PROCEDURES.** (a) *The medical board by rule shall adopt procedures governing:*

(1) *informal disposition of a contested case under Section 2001.056, Government Code; and*

(2) *informal proceedings held in compliance with Section 2001.054, Government Code.*

(b) *Rules adopted under Subsection (a) must:*

(1) *provide the complainant, if applicable and permitted by law, an opportunity to be heard;*

(2) *provide the license holder an opportunity to be heard; and*

(3) *require the medical board's legal counsel or a representative of the attorney general to be present to advise the medical board or the medical board's employees.*

(c) *Chapters 551 and 552, Government Code, do not apply to an investigation file and investigative information in the possession of or used by the medical board in an informal proceeding under this section.*

SECTION 2.084. Section 602.253, Occupations Code, is amended to read as follows:

Sec. 602.253. **PROBATION.** The *medical* board may place on probation a person whose license is suspended. If a license suspension is probated, the *medical* board may require the person to:

(1) report regularly to the *medical* board ~~[department]~~ on matters that are the basis of the probation;

(2) limit practice to the areas prescribed by the *medical* board; or

(3) continue or review professional education until the person attains a degree of skill satisfactory to the *medical* board in those areas that are the basis of the probation.

SECTION 2.085. Section 602.254(a), Occupations Code, is amended to read as follows:

(a) The *medical* board or a three-member *panel* ~~[committee]~~ of *medical* board members designated by the *president of the medical* board shall temporarily suspend the license of a license holder if the *medical* board or *panel* ~~[committee]~~ determines from the evidence or information presented to it that continued practice by the license holder would constitute a continuing and imminent threat to the public welfare.

SECTION 2.086. Section 602.301, Occupations Code, is amended to read as follows:

Sec. 602.301. INJUNCTION. The *medical* board shall prosecute or file suit to enjoin a violation of this chapter or a rule adopted under this chapter.

SECTION 2.087. Section 602.3015, Occupations Code, is amended to read as follows:

Sec. 602.3015. CIVIL PENALTY. (a) A person who violates this chapter or a rule *adopted* or order *issued* ~~[adopted by the board]~~ under this chapter is liable for a civil penalty not to exceed \$5,000 a day.

(b) At the request of the *medical* board, the attorney general shall bring an action to recover a civil penalty authorized under this section.

SECTION 2.088. Sections 602.351(a), (e), (g), (h), (i), (j), (k), and (l), Occupations Code, are amended to read as follows:

(a) The *medical* board may impose an administrative penalty on a person licensed under this chapter who violates this chapter or a rule *adopted* or order *issued* ~~[adopted]~~ under this chapter. A penalty collected under this subchapter shall be deposited in the state treasury in the general revenue fund.

(e) If the *medical board* ~~[executive secretary]~~ determines that a violation occurred, the *medical board* ~~[executive secretary]~~ shall give written notice ~~[of the report]~~ by certified mail to the person.

(g) Within 20 days after the date the person receives the notice under Subsection (e), the person in writing may:

(1) accept the determination and recommended penalty ~~[of the executive secretary]~~; or

(2) make a request for a hearing on the occurrence of the violation, the amount of the penalty, or both.

(h) If the person accepts the determination and recommended penalty or if the person fails to respond to the notice, the *medical* board by order shall approve the determination and impose the recommended penalty.

(i) If the person requests a hearing, the *medical* board shall refer the matter to the State Office of Administrative Hearings, which shall promptly set a hearing date and give written notice of the time and place of the hearing to the person. An administrative law judge of the State Office of Administrative Hearings shall conduct the hearing.

(j) The administrative law judge shall make findings of fact and conclusions of law and promptly issue to the *medical* board a proposal for a decision about the occurrence of the violation and the amount of a proposed penalty.

(k) Based on the findings of fact, conclusions of law, and proposal for a decision, the *medical* board by order may determine that:

(1) a violation occurred and impose a penalty; or

(2) a violation did not occur.

(l) The notice of the *medical* board's order under Subsection (k) that is sent to the person in accordance with Chapter 2001, Government Code, must include a statement of the right of the person to judicial review of the order.

SECTION 2.089. Sections 602.352(a), (b), and (c), Occupations Code, are amended to read as follows:

(a) Within 30 days after the date an order of the *medical* board under Section 602.351(k) that imposes an administrative penalty becomes final, the person shall:

- (1) pay the penalty; or
 - (2) file a petition for judicial review of the *medical* board's order contesting the occurrence of the violation, the amount of the penalty, or both.
- (b) Within the 30-day period prescribed by Subsection (a), a person who files a petition for judicial review may:
- (1) stay enforcement of the penalty by:
 - (A) paying the penalty to the court for placement in an escrow account; or
 - (B) giving the court a supersedeas bond approved by the court that is:
 - (i) for the amount of the penalty; and
 - (ii) effective until all judicial review of the *medical* board's order is final; or
 - (2) request the court to stay enforcement of the penalty by:
 - (A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the penalty and is financially unable to give the supersedeas bond; and
 - (B) sending a copy of the affidavit to the *medical* board by certified mail.
- (c) If the *medical* board receives a copy of an affidavit under Subsection (b)(2), the *medical* board may file with the court, within five days after the date the copy is received, a contest to the affidavit. The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the penalty or to give a supersedeas bond.

SECTION 2.090. Sections 603.002(2) and (3), Occupations Code, are amended to read as follows:

(2) "Advisory committee" [~~"Committee"~~] means the [~~Texas State~~] Perfusionist Licensure Advisory Committee.

(3) "Medical board" [~~"Department"~~] means the *Texas Medical Board* [~~Department of State Health Services~~].

SECTION 2.091. Section 603.006, Occupations Code, is amended to read as follows:

Sec. 603.006. APPLICABILITY OF OTHER LAW. Chapter 2110, Government Code, does not apply to the *advisory* committee.

SECTION 2.092. The heading to Subchapter B, Chapter 603, Occupations Code, is amended to read as follows:

SUBCHAPTER B. [~~TEXAS STATE~~] PERFUSIONIST LICENSURE ADVISORY COMMITTEE

SECTION 2.093. Section 603.051, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 603.051. ADVISORY COMMITTEE MEMBERSHIP. (a) *The advisory committee is an informal advisory committee to the medical board. The advisory committee has no independent rulemaking authority.*

(a-1) The advisory committee [~~Texas State Perfusionist Advisory Committee~~] consists of seven [~~five~~] members appointed by the president of the medical board [~~commissioner~~], as follows:

(1) *four perfusionists licensed in this state* [~~two licensed perfusionist members~~] who each have [~~been licensed under this chapter for~~] at least *five* [~~three~~] years of experience as a perfusionist [~~before the date of appointment~~];

(2) *two physicians* [~~one physician member~~] licensed in this state [~~by the Texas Medical Board~~] who supervise perfusionists [~~is certified by that board in cardiovascular surgery~~]; and

(3) *one member* ~~[two members]~~ who *represents* ~~[represent]~~ the public.

(b) Appointments to the *advisory* committee shall reflect the historical and cultural diversity of the inhabitants of this state.

(c) Appointments to the *advisory* committee shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

SECTION 2.094. Section 603.0511, Occupations Code, is amended to read as follows:

Sec. 603.0511. *PUBLIC MEMBER ELIGIBILITY* ~~[OF PUBLIC MEMBERS]~~. A person may not be a public member of the *advisory* committee if the person or the person's spouse:

(1) is registered, certified, or licensed by a regulatory agency in *a* ~~[the field of]~~ health care *profession*;

(2) is employed by or participates in the management of a business entity or other organization regulated by or receiving money from the *medical board* ~~[department]~~;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the *medical board* ~~[department]~~; or

(4) uses or receives a substantial amount of tangible goods, services, or money from the *medical board* ~~[department]~~ other than compensation or reimbursement authorized by law for *advisory* committee membership, attendance, or expenses.

SECTION 2.095. Sections 603.052(b) and (c), Occupations Code, are amended to read as follows:

(b) A person may not be *an advisory* ~~[a]~~ committee member ~~[and may not be a department employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.)]~~ if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of health care; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of health care.

(c) A person may not be a member of the *advisory* committee or act as the general counsel to the *advisory* committee ~~[or the department]~~ if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the *advisory committee* or *medical board* ~~[department]~~.

SECTION 2.096. Section 603.053, Occupations Code, is amended to read as follows:

Sec. 603.053. *TERMS; VACANCY.* (a) Members of the *advisory* committee serve *two-year* ~~[staggered six-year]~~ terms. The terms of *the* ~~[one or two]~~ members~~[-as appropriate,]~~ expire on February 1 of each odd-numbered year.

(b) *If a vacancy occurs during a member's term, the president of the medical board shall appoint a person to serve for the unexpired term.*

SECTION 2.097. Sections 603.054(a) and (b), Occupations Code, are amended to read as follows:

(a) It is a ground for removal from the *advisory* committee that a member:

(1) does not have at the time of taking office the qualifications required by Section 603.051;

(2) does not maintain during service on the *advisory* committee the qualifications required by Section 603.051;

(3) is ineligible for membership under Section 603.0511 or 603.052; or

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term~~[-or]~~

~~[(5) is absent from more than half of the regularly scheduled committee meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the committee].~~

(b) The validity of an action of the *advisory* committee is not affected by the fact that it is taken when a ground for removal of a member of the *advisory* committee exists.

SECTION 2.098. Section 603.056, Occupations Code, is amended to read as follows:

Sec. 603.056. OFFICERS. (a) *The president of the medical board* ~~[Not later than the 30th day after the date the commissioner appoints new committee members, the commissioner]~~ shall designate *biennially an advisory committee member as the [a] presiding officer of the advisory committee to serve in that capacity at the will of the president.* ~~[The presiding officer serves at the pleasure of the commissioner.]~~

(b) The *advisory* committee may appoint additional officers as necessary.

SECTION 2.099. Section 603.057, Occupations Code, is amended to read as follows:

Sec. 603.057. MEETINGS. The *advisory* committee shall meet *as requested by the medical board* ~~[subject to the call of the commissioner]~~. *A meeting may be held by telephone conference call.*

SECTION 2.100. The heading to Subchapter D, Chapter 603, Occupations Code, is amended to read as follows:

SUBCHAPTER D. MEDICAL BOARD POWERS AND DUTIES

SECTION 2.101. Section 603.151, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 603.151. GENERAL POWERS AND DUTIES ~~[OF DEPARTMENT]~~. The *medical board* ~~[department]~~ shall:

(1) establish the qualifications *for a perfusionist to practice in this state, including rules governing character and conduct for applicants or license holders and fitness of applicants or license holders to practice* ~~[for licenses, including renewed and reciprocal licenses]~~;

(2) *issue, revoke, restrict, suspend, [or] deny, cancel, or accept the surrender of a license* ~~[, probate a license suspension, or reprimand a license holder for a violation of this chapter, a rule adopted by the executive commissioner under this chapter, or the code of ethics adopted by the executive commissioner]~~;

(3) *charge fees that are reasonable and necessary to cover the costs of administering this chapter* ~~[spend money necessary to administer the department's duties]~~;

(4) *establish requirements for an examination for a license under this chapter* ~~[request and receive necessary assistance from another state agency, including a state educational institution]~~;

(5) *establish minimum education and training requirements necessary for a license under this chapter* ~~[adopt an official seal]~~; ~~[and]~~

(6) *prescribe the application form for a license under this chapter*;

(7) *adopt and publish a [the] code of ethics*;

(8) *establish procedural rules governing investigations, informal hearings, the issuance of cease and desist orders, and disciplinary sanctions*;

(9) *conduct informal hearings concerning violations of this chapter or rules adopted under this chapter*;

(10) *issue disciplinary sanctions, including agreed orders and non-disciplinary remedial plans; and*

(11) *establish procedures for making a confidential referral to the Texas Physician Health Program established under Chapter 167, and for requiring participation in the program as a prerequisite for issuing or maintaining a license under this chapter* ~~[adopted by the executive commissioner]~~.

SECTION 2.102. Section 603.152, Occupations Code, is amended to read as follows:

Sec. 603.152. GENERAL RULEMAKING AUTHORITY. The *medical board* [~~executive commissioner~~] may adopt rules necessary to:

- (1) regulate the practice of perfusion;
- (2) enforce this chapter; and
- (3) perform *medical board* [~~department~~] duties under this chapter.

SECTION 2.103. Section 603.153, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 603.153. RULES RESTRICTING ADVERTISING OR COMPETITIVE BIDDING.

(a) The *medical board* [~~executive commissioner~~] may not adopt a rule restricting advertising or competitive bidding by a person regulated by the *medical board* [~~department~~] under this chapter except to prohibit a false, misleading, or deceptive practice.

(b) The *medical board* [~~executive commissioner~~] may not include in rules to prohibit a false, misleading, or deceptive practice by a person regulated by the *medical board* [~~department~~] under this chapter a rule that:

- (1) restricts the person's use of any medium for advertising;
- (2) restricts the person's personal appearance or use of the person's voice in an advertisement;
- (3) relates to the size or duration of any advertisement by the person; or
- (4) restricts the use by the person of a trade name in advertising.

SECTION 2.104. Section 603.1535, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 603.1535. RULES ON CONSEQUENCES OF CRIMINAL CONVICTION.

(a) The *medical board* [~~executive commissioner~~] shall adopt rules necessary to comply with Chapter 53, *except to the extent the requirements of this chapter are stricter than the requirements of Chapter 53*.

(b) In rules under this section, the *medical board* [~~executive commissioner~~] shall list the specific offenses for which a conviction would constitute grounds for the *medical board* [~~department~~] to take action under Section 53.021.

SECTION 2.105. Section 603.154, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended by amending Subsection (a) to read as follows:

(a) ~~The medical board [After consulting the commissioner or the department, the executive commissioner]~~ shall set fees in amounts reasonable and necessary to cover the costs of administering this chapter.

SECTION 2.106. Section 603.155, Occupations Code, is amended to read as follows:

Sec. 603.155. [~~EXECUTIVE COMMISSIONER AND DEPARTMENT~~] DUTIES REGARDING COMPLAINTS. (a) The *medical board* [~~executive commissioner~~] by rule shall:

- (1) adopt a form to standardize information concerning complaints made to the *medical board* [~~department~~]; and
 - (2) prescribe information to be provided to a person when the person files a complaint with the *medical board* [~~department~~].
- (b) The *medical board* [~~department~~] shall provide reasonable assistance to a person who wishes to file a complaint with the *medical board* [~~department~~].

SECTION 2.107. Section 603.156, Occupations Code, is amended to read as follows:

Sec. 603.156. REGISTRY. The *medical board* [~~department~~] shall prepare a registry of licensed perfusionists and provisionally licensed perfusionists that is available to the public, license holders, and appropriate state agencies.

SECTION 2.108. Section 603.201, Occupations Code, is amended to read as follows:

Sec. 603.201. PUBLIC INTEREST INFORMATION. (a) The *medical board* ~~[department]~~ shall prepare information of consumer interest describing the profession of perfusion, the regulatory functions of the *medical board* ~~[department]~~, and the procedures by which consumer complaints are filed with and resolved by the *medical board* ~~[department]~~.

(b) The *medical board* ~~[department]~~ shall make the information available to the public and appropriate state agencies.

SECTION 2.109. Section 603.202, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 603.202. COMPLAINTS. (a) The *medical board* ~~[executive commissioner]~~ by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the *medical board* ~~[department]~~ for the purpose of directing complaints under this chapter to the *medical board* ~~[department]~~. The *medical board* ~~[department]~~ may provide for that notice:

- (1) on each license form, application, or written contract for services of a person licensed under this chapter;
- (2) on a sign prominently displayed in the place of business of each person licensed under this chapter; or
- (3) in a bill for services provided by a person licensed under this chapter.

(b) The *medical board* ~~[department]~~ shall list with its regular telephone number any toll-free telephone number established under other state law that may be called to present a complaint about a health professional.

SECTION 2.110. Section 603.203, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 603.203. RECORDS OF COMPLAINTS. (a) The *medical board* ~~[department]~~ shall maintain a system to promptly and efficiently act on complaints filed ~~[with the department]~~ under this chapter. The *medical board* ~~[department]~~ shall maintain:

- (1) information about the parties to the complaint and the subject matter of the complaint;
- (2) a summary of the results of the review or investigation of the complaint; and
- (3) information about the disposition of the complaint.

(b) The *medical board* ~~[department]~~ shall make information available describing its procedures for complaint investigation and resolution.

(c) The *medical board* ~~[department]~~ shall periodically notify the parties of the status of the complaint until final disposition of the complaint.

SECTION 2.111. Section 603.204, Occupations Code, is amended by amending Subsections (a) and (d), as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, and amending Subsection (b) to read as follows:

(a) The *medical board* ~~[executive commissioner]~~ shall adopt rules concerning the investigation of a complaint filed ~~[with the department]~~ under this chapter. The rules shall:

- (1) distinguish among categories of complaints;
- (2) ensure that a complaint is not dismissed without appropriate consideration;
- (3) require that *if* ~~[the department be advised of]~~ a complaint ~~[that]~~ is dismissed, ~~[and that]~~ a letter *shall* be sent to the person who filed the complaint explaining the action taken on the dismissed complaint;
- (4) ensure that the person who filed the complaint has an opportunity to explain the allegations made in the complaint; and
- (5) prescribe guidelines concerning the categories of complaints that require the use of a private investigator and the procedures for the *medical board* ~~[department]~~ to obtain the services of a private investigator.

(b) The *medical board* [department] shall:

(1) dispose of each complaint in a timely manner; and

(2) establish, not later than the 30th day after the date the *medical board* [department] receives a complaint, a schedule for conducting each phase of the complaint resolution process that is under the control of the *medical board* [department].

(d) The executive *director of the medical board* [secretary] shall notify the *president of the medical board* [department] of a complaint that is not resolved within the time prescribed by the *medical board* [department] for resolving the complaint so that the *president* [department] may take necessary action on the complaint.

SECTION 2.112. The heading to Section 603.2041, Occupations Code, is amended to read as follows:

Sec. 603.2041. SUBPOENAS; CONFIDENTIALITY OF INFORMATION.

SECTION 2.113. Section 603.2041, Occupations Code, is amended by amending Subsections (a), (h), and (i), as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, and adding Subsection (a-1) to read as follows:

(a) *The executive director of the medical board, the director's designee, or the secretary-treasurer of the medical board* [~~In an investigation of a complaint filed with the department, the department~~] may issue a subpoena or subpoena duces tecum:

(1) *to conduct an investigation or a contested case proceeding related to:*

(A) *alleged misconduct by a perfusionist;*

(B) *an alleged violation of this chapter or another law related to the practice of perfusion; or*

(C) *the provision of health care under this chapter; or*

(2) *for purposes of determining whether to issue, suspend, restrict, or revoke a license under this chapter* [~~to compel the attendance of a relevant witness or the production, for inspection or copying, of relevant evidence that is in this state~~].

(a-1) *Failure to timely comply with a subpoena issued under this section is a ground for:*

(1) *disciplinary action by the medical board or another licensing or regulatory agency with jurisdiction over the person subject to the subpoena; and*

(2) *denial of a license application.*

(h) All information and materials subpoenaed or compiled by the *medical board* [department] in connection with a complaint and investigation under this chapter are confidential and not subject to disclosure under Chapter 552, Government Code, and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release to anyone other than the *medical board* [department] or its agents or employees involved in discipline of the holder of a license, except that this information may be disclosed to:

(1) persons involved with the *medical board* [department] in a disciplinary action against the holder of a license under this chapter;

(2) professional perfusionist licensing or disciplinary boards in other jurisdictions;

(3) peer assistance programs approved by the *medical board* [department] under Chapter 467, Health and Safety Code;

(4) law enforcement agencies; and

(5) persons engaged in bona fide research, if all individual-identifying information has been deleted.

(i) The filing of formal charges by the *medical board* [department] against a holder of a license under this chapter, the nature of those charges, disciplinary proceedings of the *medical board* [department], and final disciplinary actions, including warnings and reprimands, by the *medical board* [department] are not confidential and are subject to disclosure in accordance with Chapter 552, Government Code.

SECTION 2.114. Section 603.205, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 603.205. PUBLIC PARTICIPATION. (a) The *medical board* [department] shall develop and implement policies that provide the public with a reasonable opportunity to appear before the *medical board* [department] and to speak on any issue related to the practice of perfusion.

(b) The *medical board* [department] shall prepare and maintain a written plan that describes how a person who does not speak English or who has a physical, mental, or developmental disability may be provided reasonable access to the *medical board's* [department's] programs under this chapter.

SECTION 2.115. Section 603.252(b), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(b) The *medical board* [department] shall prescribe the application form and ~~(the executive commissioner)~~ by rule may establish dates by which applications and fees must be received.

SECTION 2.116. Sections 603.253(b), (c), (d), and (e), Occupations Code, are amended to read as follows:

(b) The *medical board* [department] shall prepare or approve an examination. The *medical board* [department] may prescribe an examination that consists of or includes a written examination given by the American Board of Cardiovascular Perfusion or by a national or state testing service.

(c) The *medical board* [department] shall have any written portion of the examination validated by an independent testing professional.

(d) The *medical board* [department] shall administer an examination to qualified applicants at least once each calendar year.

(e) On receipt of an application and application fee, the *medical board* [department] shall waive the examination requirement for an applicant who, at the time of application:

(1) is licensed or certified by another state that has licensing or certification requirements the *medical board* [department] determines to be substantially equivalent to the requirements of this chapter; or

(2) holds a certificate as a certified clinical perfusionist issued by the American Board of Cardiovascular Perfusion before January 1, 1994, authorizing the holder to practice perfusion in a state that does not license or certify perfusionists.

SECTION 2.117. Sections 603.2535(b) and (c), Occupations Code, are amended to read as follows:

(b) The *medical board* [department] shall develop and administer at least twice each calendar year a jurisprudence examination to determine an applicant's knowledge of this chapter, rules adopted *under this chapter* ~~(by the executive commissioner)~~, and any other applicable laws of this state affecting the applicant's practice of perfusion.

(c) The *medical board* ~~[executive commissioner]~~ shall adopt rules to implement this section, including rules related to the development and administration of the examination, examination fees, guidelines for reexamination, grading the examination, and providing notice of examination results.

SECTION 2.118. Section 603.254, Occupations Code, is amended to read as follows:

Sec. 603.254. QUALIFICATION FOR EXAMINATION. (a) To qualify for the licensing examinations under this chapter, an applicant must have successfully completed a perfusion education program approved by the *medical board* [department].

(b) The *medical board* [department] may approve a perfusion education program only if the program has educational standards that are:

(1) at least as stringent as those established by the Accreditation Committee for Perfusion Education of the American Medical Association or its successor; and

(2) approved by the Commission on Accreditation of the Allied Health Education Program of the American Medical Association or its successor.

SECTION 2.119. Section 603.255(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) The *medical board* [department] shall notify an applicant in writing of the receipt and investigation of the applicant's application and any other relevant evidence relating to qualifications established by [department] rule not later than:

- (1) the 45th day after the date a properly submitted and timely application is received; and
- (2) the 30th day before the next examination date.

SECTION 2.120. Section 603.256, Occupations Code, is amended to read as follows:

Sec. 603.256. EXAMINATION RESULTS. (a) The *medical board* [department] shall notify each examinee of the examination results not later than the 30th day after the date the examination is administered. If an examination is graded or reviewed by a national or state testing service, the *medical board* [department] shall notify each examinee of the examination results not later than the 14th day after the date the *medical board* [department] receives the results from the testing service.

(b) If the notice of the results of an examination graded or reviewed by a national or state testing service will be delayed for longer than 90 days after the examination date, the *medical board* [department] shall notify each examinee of the reason for the delay before the 90th day.

(c) If requested in writing by a person who fails the examination, the *medical board* [department] shall provide to the person an analysis of the person's performance on the examination.

SECTION 2.121. Section 603.257, Occupations Code, is amended to read as follows:

Sec. 603.257. REEXAMINATION AND ALTERNATIVES TO EXAMINATION. The *medical board* [executive commissioner] by rule shall establish:

- (1) a limit on the number of times an applicant who fails an examination may retake the examination;
- (2) requirements for retaking an examination; and
- (3) alternative methods of examining competency.

SECTION 2.122. Subchapter F, Chapter 603, Occupations Code, is amended by adding Section 603.2571 to read as follows:

Sec. 603.2571. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR LICENSE. (a) The *medical board* shall require that an applicant for a license submit a complete and legible set of fingerprints, on a form prescribed by the medical board, to the medical board or to the Department of Public Safety for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation.

(b) The *medical board* may not issue a license to a person who does not comply with the requirement of Subsection (a).

(c) The *medical board* shall conduct a criminal history check of each applicant for a license using information:

- (1) provided by the individual under this section; and
 - (2) made available to the medical board by the Department of Public Safety, the Federal Bureau of Investigation, and any other criminal justice agency under Chapter 411, Government Code.
- (d) The *medical board* may:

- (1) enter into an agreement with the Department of Public Safety to administer a criminal history check required under this section; and
- (2) authorize the Department of Public Safety to collect from each applicant the costs incurred by the Department of Public Safety in conducting the criminal history check.

SECTION 2.123. Section 603.259, Occupations Code, is amended by amending

Subsections (a) and (d) and Subsection (c), as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to read as follows:

(a) The *medical board* ~~[department]~~ may issue a provisional license to an applicant who files an application, pays an application fee, and submits evidence satisfactory to the *medical board* ~~[department]~~ of successful completion of the education requirement under Section 603.254.

(c) A provisionally licensed perfusionist must practice under the supervision and direction of a licensed perfusionist while performing perfusion. If the *medical board* ~~[department]~~ finds that a licensed perfusionist is not reasonably available to provide supervision and direction and if the *medical board* ~~[department]~~ approves an application submitted ~~[to the department]~~ by the provisionally licensed perfusionist, supervision and direction may be provided by a physician who is licensed by the *medical board* ~~[Texas Medical Board]~~ and certified by the American Board of Thoracic Surgery or certified in cardiovascular surgery by the American Osteopathic Board of Surgery.

(d) The *medical board* ~~[executive commissioner]~~ may not adopt a rule governing supervision and direction that requires the immediate physical presence of the supervising person.

SECTION 2.124. Sections 603.301(b), (c), (d), and (f), Occupations Code, are amended to read as follows:

(b) The *medical board* ~~[executive commissioner]~~ by rule may adopt a system under which licenses expire on various dates during the year.

(c) A person may renew an unexpired license by paying the required renewal fee to the *medical board* ~~[department]~~ before the license expiration date.

(d) A person whose license has been expired for 90 days or less may renew the license by paying to the *medical board* ~~[department]~~ a fee that is equal to 1-1/4 times the amount of the renewal fee. If a license has been expired for more than 90 days but less than one year, the person may renew the license by paying to the *medical board* ~~[department]~~ a fee that is equal to 1-1/2 times the amount of the renewal fee.

(f) Before the 30th day before a person's license expiration date, the *medical board* ~~[department]~~ shall send written notice of the impending license expiration to the person at the person's last known address according to *medical board* ~~[department]~~ records.

SECTION 2.125. Section 603.303, Occupations Code, is amended to read as follows:

Sec. 603.303. RENEWAL OF EXPIRED LICENSE BY OUT-OF-STATE PRACTITIONER. (a) The *medical board* ~~[department]~~ may renew without reexamination an expired license of a person who was licensed as a perfusionist in this state, moved to another state, and is licensed or certified and has been in practice in the other state for the two years preceding the date the person applies for renewal.

(b) The person must pay to the *medical board* ~~[department]~~ a fee that is equal to the amount of the renewal fee for the license.

SECTION 2.126. Subchapter G, Chapter 603, Occupations Code, is amended by adding Section 603.3031 to read as follows:

Sec. 603.3031. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR RENEWAL. (a) An applicant renewing a license shall submit a complete and legible set of fingerprints for purposes of performing a criminal history check of the applicant as provided by Section 603.2571.

(b) The *medical board* may not renew the license of a person who does not comply with the requirement of Subsection (a).

(c) A license holder is not required to submit fingerprints under this section for the renewal of the license if the license holder has previously submitted fingerprints under:

- (1) Section 603.2571 for the initial issuance of the license; or
- (2) this section as part of a prior renewal of the license.

SECTION 2.127. Section 603.304, Occupations Code, as amended by S.B. 219, Acts

of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 603.304. CONTINUING EDUCATION. (a) To renew a license under this chapter, a person must submit proof satisfactory to the *medical board* ~~[department]~~ that the person has complied with the continuing education requirements prescribed by the *medical board* ~~[executive commissioner]~~.

(b) The *medical board* ~~[executive commissioner]~~ shall establish continuing education programs for licensed perfusionists and provisionally licensed perfusionists under this chapter. The standards of the programs must be at least as stringent as the standards of the American Board of Cardiovascular Perfusion or its successor.

(c) The *medical board* ~~[executive commissioner]~~ shall:

(1) establish a minimum number of hours of continuing education required for license renewal under this chapter; and

(2) develop a process to evaluate and approve continuing education courses.

(d) The *medical board* ~~[executive commissioner]~~ shall identify key factors for a license holder's competent performance of professional duties. The *medical board* ~~[executive commissioner]~~ shall adopt a procedure to assess a license holder's participation in continuing education programs.

SECTION 2.128. Section 603.305, Occupations Code, is amended to read as follows:

Sec. 603.305. GROUNDS FOR REFUSING RENEWAL. The *medical board* ~~[department]~~ may refuse to renew the license of a person who fails to pay an administrative penalty imposed under Subchapter K unless enforcement of the penalty is stayed or a court has ordered that the administrative penalty is not owed.

SECTION 2.129. Section 603.352, Occupations Code, is amended to read as follows:

Sec. 603.352. LICENSE HOLDER INFORMATION. A person licensed under this chapter shall keep the *medical board* ~~[department]~~ informed of any change in the license holder's address.

SECTION 2.130. Section 603.353, Occupations Code, is amended to read as follows:

Sec. 603.353. SURRENDER OF LICENSE. A license certificate issued by the *medical board* ~~[department]~~ is the property of the *medical board* ~~[department]~~ and shall be surrendered on demand.

SECTION 2.131. Section 603.401, Occupations Code, is amended to read as follows:

Sec. 603.401. GROUNDS FOR DISCIPLINARY ACTION. If a license holder violates this chapter or a rule or code of ethics adopted *under this chapter* ~~[by the executive commissioner]~~, the *medical board may* ~~[department shall]~~:

(1) revoke, *restrict*, or suspend the license;

(2) place on probation the person if the person's license has been suspended;

(3) reprimand the license holder; or

(4) refuse to renew the license.

SECTION 2.132. Section 603.402, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 603.402. *CONTESTED CASE HEARING. Chapter 2001, Government Code, and medical board rules for a contested case hearing apply to a proceeding by the medical board under this chapter in which a formal complaint has been filed [(a) If the department proposes to revoke, suspend, or refuse to renew a person's license, the person is entitled to a hearing before a hearings officer appointed by the State Office of Administrative Hearings].*

[(b) The executive commissioner shall prescribe procedures for appealing to the department a decision to revoke, suspend, or refuse to renew a license.]

SECTION 2.133. Section 603.404(a), Occupations Code, is amended to read as follows:

(a) The *medical board* ~~[executive commissioner]~~ by rule shall adopt a broad schedule of sanctions for a violation of this chapter.

SECTION 2.134. Section 603.405, Occupations Code, is amended to read as follows:

Sec. 603.405. PROBATION. The *medical board* [department] may require a person whose license suspension is probated to:

- (1) report regularly to the *medical board* [department] on matters that are the basis of the probation;
- (2) limit practice to areas prescribed by the *medical board* [department]; or
- (3) continue the person's professional education until the license holder attains a degree of skill satisfactory to the *medical board* [department] in those areas that are the basis of the probation.

SECTION 2.135. Section 603.406, Occupations Code, is amended to read as follows:

Sec. 603.406. MONITORING OF LICENSE HOLDER. (a) The *medical board* [executive commissioner] by rule shall develop a system for monitoring a license holder's compliance with the requirements of this chapter.

(b) Rules adopted under this section must include procedures to:

- (1) monitor for compliance a license holder who is ordered by the *medical board* [department] to perform certain acts; and
- (2) identify and monitor license holders who represent a risk to the public.

SECTION 2.136. Section 603.407, Occupations Code, is amended to read as follows:

Sec. 603.407. INFORMAL PROCEDURES. (a) The *medical board* [executive commissioner] by rule shall adopt procedures governing:

- (1) informal disposition of a contested case under Section 2001.056, Government Code; and
- (2) an informal proceeding held in compliance with Section 2001.054, Government Code.

(b) Rules adopted under Subsection (a) must:

- (1) provide the complainant, *if applicable and permitted by law, an opportunity to be heard*;
- (2) *provide* [and] the license holder an opportunity to be heard; and
- (3) [(2)] require the presence of a representative of the attorney general or the *medical board's* [department's] legal counsel to advise the *medical board* [department] or the *medical board's* [department's] employees.

(c) *Chapters 551 and 552, Government Code, do not apply to an investigation file and investigative information in the possession of or used by the medical board in an informal proceeding under this section.*

SECTION 2.137. Section 603.408(a), Occupations Code, is amended to read as follows:

(a) The *medical board or a three-member panel of medical board members designated by the president of the medical board* [department] shall temporarily suspend the license of a license holder if the *medical board or panel* [department] determines from the evidence or information presented to it that continued practice by the license holder would constitute a continuing and imminent threat to the public welfare.

SECTION 2.138. Section 603.409, Occupations Code, is amended to read as follows:

Sec. 603.409. REFUND. (a) Subject to Subsection (b), the *medical board* [department] may order a license holder to pay a refund to a consumer as provided in an agreement resulting from an informal settlement conference instead of or in addition to imposing an administrative penalty under this chapter.

(b) The amount of a refund ordered as provided in an agreement resulting from an informal settlement conference may not exceed the amount the consumer paid to the license holder for a service regulated by this chapter. The *medical board* [department] may not require payment of other damages or estimate harm in a refund order.

SECTION 2.139. Section 603.451(a), Occupations Code, is amended to read as follows:

(a) The *medical board* ~~[department]~~ may request the attorney general or the appropriate county or district attorney to commence an action to enjoin a violation of this chapter.

SECTION 2.140. Section 603.4515, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 603.4515. CIVIL PENALTY. (a) A person who violates this chapter ~~or~~ ~~[a rule adopted by the executive commissioner under this chapter]~~ or an order *issued* ~~[adopted by the department]~~ under this chapter is liable for a civil penalty not to exceed \$5,000 a day.

(b) At the request of the *medical board* ~~[department]~~, the attorney general shall bring an action to recover a civil penalty authorized under this section.

SECTION 2.141. Section 603.453(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) If it appears to the *medical board* ~~[department]~~ that a person who is not licensed under this chapter is violating this chapter, a rule adopted under this chapter, or another state statute or rule relating to the practice of perfusion, the *medical board* ~~[department]~~ after notice and an opportunity for a hearing may issue a cease and desist order prohibiting the person from engaging in the activity.

SECTION 2.142. Section 603.501, Occupations Code, is amended to read as follows:

Sec. 603.501. IMPOSITION OF ADMINISTRATIVE PENALTY. The *medical board* ~~[department]~~ may impose an administrative penalty on a person licensed under this chapter who violates this chapter or a rule or order adopted under this chapter.

SECTION 2.143. Section 603.502(c), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(c) The *medical board* ~~[executive commissioner]~~ by rule shall adopt an administrative penalty schedule based on the criteria listed in Subsection (b) for violations of this chapter or applicable rules to ensure that the amounts of penalties imposed are appropriate to the violation. The *medical board* ~~[department]~~ shall provide the administrative penalty schedule to the public on request.

SECTION 2.144. Section 603.503, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 603.503. NOTICE OF VIOLATION AND PENALTY. If the *medical board* ~~[department]~~ determines that a violation occurred, the *medical board* ~~[department]~~ shall give written notice of the violation to the person. The notice must:

- (1) include a brief summary of the alleged violation;
- (2) state the amount of the *recommended* administrative penalty ~~[recommended by the department]~~; and
- (3) inform the person of the person's right to a hearing on the occurrence of the violation, the amount of the penalty, or both.

SECTION 2.145. Section 603.504, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 603.504. PENALTY TO BE PAID OR HEARING REQUESTED. (a) Within 10 days after the date the person receives the notice, the person in writing may:

- (1) accept the determination and recommended administrative penalty of the *medical board* ~~[department]~~; or
- (2) make a request for a hearing on the occurrence of the violation, the amount of the penalty, or both.

(b) If the person accepts the determination and recommended penalty of the *medical board* ~~[department]~~, the *medical board* ~~[department]~~ by order shall approve the determination and impose the recommended penalty.

SECTION 2.146. Sections 603.505(a) and (c), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, are amended to read as follows:

(a) If the person requests a hearing or fails to respond in a timely manner to the notice, the *medical board* [department] shall set a hearing and give written notice of the hearing to the person.

(c) The administrative law judge shall make findings of fact and conclusions of law and promptly issue to the *medical board* [department] a proposal for a decision about the occurrence of the violation and the amount of a proposed administrative penalty.

SECTION 2.147. Section 603.506, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 603.506. **DECISION BY MEDICAL BOARD** [DEPARTMENT]. (a) Based on the findings of fact, conclusions of law, and proposal for decision, the *medical board* [department] by order may determine that:

- (1) a violation occurred and impose an administrative penalty; or
- (2) a violation did not occur.

(b) The notice of the *medical board's* [department's] order given to the person must include a statement of the right of the person to judicial review of the order.

SECTION 2.148. Sections 603.507(a), (b), and (c), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, are amended to read as follows:

(a) Within 30 days after the date the *medical board's* [department's] order becomes final, the person shall:

- (1) pay the administrative penalty; or
- (2) file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both.

(b) Within the 30-day period prescribed by Subsection (a), a person who files a petition for judicial review may:

- (1) stay enforcement of the penalty by:
 - (A) paying the penalty to the court for placement in an escrow account; or
 - (B) giving the court a supersedeas bond approved by the court that:
 - (i) is for the amount of the penalty; and
 - (ii) is effective until all judicial review of the *medical board's* [department's] order is final; or
- (2) request the court to stay enforcement of the penalty by:
 - (A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the penalty and is financially unable to give the supersedeas bond; and
 - (B) giving a copy of the affidavit to the *medical board* [department] by certified mail.

(c) If the *medical board* [department] receives a copy of an affidavit under Subsection (b)(2), the *medical board* [department] may file with the court, within five days after the date the copy is received, a contest to the affidavit.

SECTION 2.149. Sections 604.001(1) and (2), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, are amended to read as follows:

(1) "*Advisory board*" means the *Texas Board of Respiratory Care* [~~"Department" means the Department of State Health Services~~].

(2) "*Medical board*" means the *Texas Medical Board* [~~"Executive commissioner" means the executive commissioner of the Health and Human Services Commission~~].

SECTION 2.150. Section 604.003, Occupations Code, is amended to read as follows:

Sec. 604.003. **EFFECT OF CHAPTER.** This chapter does not prohibit:

- (1) the practice of respiratory care as an integral part of the program of study by a

student enrolled in a respiratory care education program approved by the *advisory board* [department];

(2) the employment by a health care facility of a person to deliver limited respiratory care support services under the supervision of another person who holds a certificate issued under this chapter, if the person delivering the services does not perform an invasive procedure related to critical respiratory care, including a therapeutic, diagnostic, or palliative procedure, as part of the person's employment and if that person:

(A) is enrolled for credit in the clinical portion of an approved respiratory care education program; or

(B) has completed all of the clinical portion of an approved respiratory care education program within the preceding 12 months and is actively pursuing a course of study leading to graduation from the program;

(3) the care of an ill person provided without charge by a friend or family member;

(4) care provided in an emergency by a person who does not claim to be a respiratory care practitioner;

(5) the performance by a respiratory care practitioner of an advance in the art and techniques of respiratory care learned through formal or specialized training;

(6) the practice of respiratory care by health care personnel who have been formally trained in the care used and who are:

(A) licensed under the law regulating their professions; or

(B) acting under the delegated authority of a licensed physician;

(7) the practice of a legally qualified respiratory care practitioner who is discharging the practitioner's official duties as an employee of the United States government; or

(8) the practice by a person of a profession or occupation for which the person is licensed, registered, or certified under another law of this state.

SECTION 2.151. Chapter 604, Occupations Code, is amended by adding Subchapter A-1 to read as follows:

SUBCHAPTER A-1. TEXAS BOARD OF RESPIRATORY CARE

Sec. 604.021. *TEXAS BOARD OF RESPIRATORY CARE.* The Texas Board of Respiratory Care is an advisory board to the Texas Medical Board.

Sec. 604.022. *APPOINTMENT OF ADVISORY BOARD.* (a) The advisory board consists of nine members appointed by the governor with the advice and consent of the senate as follows:

(1) four respiratory care practitioners who each have at least five years of experience as a respiratory care practitioner;

(2) two physicians licensed in this state who supervise respiratory care practitioners; and

(3) three members who represent the public.

(b) Appointments to the advisory board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

Sec. 604.023. *MEMBERSHIP ELIGIBILITY AND RESTRICTIONS.* (a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a public member of the advisory board if the person or the person's spouse:

(1) is registered, certified, or licensed by a regulatory agency in a health care profession;

(2) *is employed by or participates in the management of a business entity or other organization regulated by or receiving money from the medical board or advisory board;*

(3) *owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the medical board or advisory board; or*

(4) *uses or receives a substantial amount of tangible goods, services, or money from the medical board or advisory board other than compensation or reimbursement authorized by law for advisory board membership, attendance, or expenses.*

(c) *A person may not be a member of the advisory board if:*

(1) *the person is an officer, employee, or paid consultant of a Texas trade association in the field of health care; or*

(2) *the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of health care.*

(d) *A person may not be a member of the advisory board or act as the general counsel to the advisory board if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the medical board or advisory board.*

Sec. 604.024. **TERMS; VACANCIES.** (a) *Members of the advisory board are appointed for staggered six-year terms. The terms of three members expire on February 1 of each odd-numbered year.*

(b) *A member may not serve more than:*

(1) *two consecutive full terms; or*

(2) *a total of three full terms.*

(c) *If a vacancy occurs during a member's term, the governor shall appoint a new member to fill the unexpired term.*

Sec. 604.025. **OFFICERS.** *The governor shall designate a member of the advisory board as the presiding officer of the advisory board to serve in that capacity at the will of the governor. The advisory board shall select from its membership an assistant presiding officer and other officers as the advisory board considers necessary to carry out the advisory board's duties.*

Sec. 604.026. **GROUND FOR REMOVAL.** (a) *It is a ground for removal from the advisory board that a member:*

(1) *does not have at the time of taking office the qualifications required by Sections 604.022 and 604.023;*

(2) *does not maintain during service on the advisory board the qualifications required by Sections 604.022 and 604.023;*

(3) *is ineligible for membership under Section 604.023;*

(4) *cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or*

(5) *is absent from more than half of the regularly scheduled advisory board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the advisory board.*

(b) *The validity of an action of the advisory board is not affected by the fact that it is taken when a ground for removal of an advisory board member exists.*

(c) *If the executive director of the medical board has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the advisory board of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the advisory board, who shall then notify the governor and the attorney general that a potential ground for removal exists.*

Sec. 604.027. PER DIEM. A member of the advisory board is entitled to receive a per diem as set by legislative appropriation for each day that the member engages in the business of the advisory board.

Sec. 604.028. APPLICATION OF OPEN MEETINGS, OPEN RECORDS, AND ADMINISTRATIVE PROCEDURE LAWS. Except as otherwise provided by this chapter, the advisory board is subject to Chapters 551, 552, and 2001, Government Code.

Sec. 604.029. MEETINGS; QUORUM REQUIREMENTS. (a) The advisory board shall conduct regular meetings at least three times a year at the times and places the advisory board considers most convenient for applicants and advisory board members.

(b) The advisory board may hold special meetings in accordance with rules adopted by the advisory board and approved by the medical board.

(c) A majority of the advisory board members constitutes a quorum for all purposes except for an advisory board activity related to examining the credentials of applicants, acting as a panel for disciplinary action under Section 604.202, or conducting an informal meeting under Section 604.209.

Sec. 604.030. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the advisory board may not vote, deliberate, or be counted as a member in attendance at a meeting of the advisory board until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

- (1) this chapter and the advisory board's programs, functions, rules, and budget;*
- (2) the results of the most recent formal audit of the advisory board;*
- (3) the requirements of laws relating to open meetings, public information, administrative procedure, and conflicts of interest; and*
- (4) any applicable ethics policies adopted by the advisory board or the Texas Ethics Commission.*

(c) A person appointed to the advisory board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

SECTION 2.152. The heading to Subchapter B, Chapter 604, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

SUBCHAPTER B. POWERS AND DUTIES OF ADVISORY BOARD ~~[EXECUTIVE COMMISSIONER]~~ AND MEDICAL BOARD ~~[DEPARTMENT]~~

SECTION 2.153. The heading to Section 604.052, Occupations Code, is amended to read as follows:

Sec. 604.052. GENERAL POWERS AND DUTIES OF ADVISORY BOARD [RULES].

SECTION 2.154. Section 604.052(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) The advisory board ~~[executive commissioner by rule]~~ shall:

(1) adopt rules that are reasonable and necessary for the performance of the advisory board's duties under this chapter, as provided by Chapter 2001, Government Code, including rules to establish:

- (A) the certification and permitting program;*
- (B) minimum qualifications for respiratory care practitioners;*
- (C) standards of conduct and fitness for respiratory care practitioners;*
- (D) grounds for disciplinary actions;*
- (E) procedures for disciplinary proceedings;*

- (F) *guidelines for the issuance of sanctions;*
- (G) *procedures for non-disciplinary remedial plans; and*
- (H) *procedures for requiring an applicant for or holder of a certificate or temporary permit to submit to:*
 - (i) *an examination of the applicant's or holder's physical or mental health; and*
 - (ii) *screening for alcohol or substance abuse or behavioral issues;*
- (2) *review and approve or reject each application for the issuance or renewal of a certificate or temporary permit;*
- (3) *adopt procedures for the issuance or renewal of each certificate or permit;*
- (4) *deny, suspend, restrict, cancel, or revoke [standards for issuing, denying, renewing, suspending, suspending on an emergency basis, or revoking] a certificate or temporary permit or otherwise discipline a certificate or permit holder; and*
- (5) *take any other action necessary to carry out the functions and duties of the advisory board under this chapter.*

SECTION 2.155. Subchapter B, Chapter 604, Occupations Code, is amended by adding Sections 604.0521 and 604.0522 to read as follows:

Sec. 604.0521. GUIDELINES FOR EARLY INVOLVEMENT IN RULEMAKING PROCESS. (a) The advisory board shall adopt guidelines to establish procedures for receiving input during the rulemaking process from individuals and groups that have an interest in matters under the advisory board's jurisdiction. The guidelines must provide an opportunity for those individuals and groups to provide input before the advisory board submits the rule to the medical board for approval.

(b) A rule adopted under this chapter may not be challenged on the grounds that the advisory board did not comply with this section. If the advisory board was unable to solicit a significant amount of input from the public or affected persons early in the rulemaking process, the advisory board shall state in writing the reasons why it was unable to do so.

Sec. 604.0522. POWERS AND DUTIES OF MEDICAL BOARD RELATING TO RESPIRATORY CARE PRACTITIONERS. (a) The medical board shall adopt rules consistent with this chapter to regulate:

- (1) respiratory care practitioners; and*
- (2) physicians who supervise respiratory care practitioners.*

(b) The medical board, by a majority vote, shall approve or reject each rule adopted by the advisory board. If approved, the rule may take effect. If the rule is rejected, the medical board shall return the rule to the advisory board for revision.

SECTION 2.156. Section 604.053, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 604.053. FEES. (a) The advisory board [executive commissioner] by rule shall set fees for an application, examination, certificate, temporary permit, permit and certificate renewal, and certificate reinstatement.

(b) The advisory board [executive commissioner] by rule shall set fees in reasonable amounts that are sufficient to cover the costs of administering this chapter. [The executive commissioner shall set fees for issuing or renewing a certificate or permit in amounts designed to allow the department to recover from the certificate and permit holders all of the department's direct and indirect costs in administering and enforcing this chapter.]

SECTION 2.157. Section 604.054, Occupations Code, is amended to read as follows:

Sec. 604.054. APPROVAL OF EDUCATION PROGRAMS. In determining whether to approve a respiratory care education program, the advisory board [department] shall consider relevant information about the quality of the program, including accreditation of the program by a professional medical association, such as the Commission on Accreditation of Allied Health Education Programs.

SECTION 2.158. Section 604.055, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 604.055. PEER ASSISTANCE PROGRAM. The *advisory board* [~~department~~] may use the *Texas Physician Health Program* established under Chapter 167 as the *advisory board's* [~~establish, approve, and fund a~~] peer assistance program [~~in accordance with Section 467.003, Health and Safety Code, and department rules~~]. The *advisory board* by rule may establish procedures for making a confidential referral to the *Texas Physician Health Program* and for requiring participation in the program as a prerequisite for issuing or maintaining a certificate or temporary permit under this chapter.

SECTION 2.159. Section 604.057, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 604.057. RULES REGARDING ADVERTISING OR COMPETITIVE BIDDING. (a) The *advisory board* [~~executive commissioner~~] may not adopt rules restricting advertising or competitive bidding by a temporary permit or certificate holder except to prohibit false, misleading, or deceptive practices.

(b) In adopting rules to prohibit false, misleading, or deceptive practices, the *advisory board* [~~executive commissioner~~] may not include a rule that:

- (1) restricts the use of any medium for advertising;
- (2) restricts the use of a temporary permit or certificate holder's personal appearance or voice in an advertisement;
- (3) relates to the size or duration of an advertisement by the temporary permit or certificate holder; or
- (4) restricts the temporary permit or certificate holder's advertisement under a trade name.

SECTION 2.160. Subchapter B, Chapter 604, Occupations Code, is amended by adding Sections 604.058, 604.059, and 604.060 to read as follows:

Sec. 604.058. RULES ON CONSEQUENCES OF CRIMINAL CONVICTION. The *advisory board* shall adopt rules and guidelines as necessary to comply with Chapter 53, except to the extent the requirements of this chapter are stricter than the requirements of Chapter 53.

Sec. 604.059. ASSISTANCE BY MEDICAL BOARD; DIVISION OF RESPONSIBILITIES. (a) The *medical board* shall provide administrative and clerical employees as necessary to enable the *advisory board* to administer this chapter.

(b) Subject to the advice and approval of the *medical board*, the *advisory board* shall develop and implement policies that clearly separate the policy-making responsibilities of the *advisory board* and the management responsibilities of the *executive director* and staff of the *medical board*.

Sec. 604.060. PUBLIC PARTICIPATION. Subject to the advice and approval of the *medical board*, the *advisory board* shall develop and implement policies that provide the public with a reasonable opportunity to appear before the *advisory board* and to speak on any issue under the jurisdiction of the *advisory board*.

SECTION 2.161. Section 604.101(b), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(b) A person may not practice respiratory care other than under the direction of a qualified medical director or other physician licensed by the *medical board* [~~Texas Medical Board~~].

SECTION 2.162. Section 604.103, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 604.103. APPLICATION; APPLICATION FEE. An applicant for a certificate or temporary permit must:

- (1) apply to the *advisory board* [~~department~~] on a form prescribed by [~~the department~~] and under rules adopted by the *advisory board* [~~executive commissioner~~]; and

(2) submit a nonrefundable application fee with the application.

SECTION 2.163. Subchapter C, Chapter 604, Occupations Code, is amended by adding Section 604.1031 to read as follows:

Sec. 604.1031. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR CERTIFICATE OR TEMPORARY PERMIT. (a) The advisory board shall require that an applicant for a certificate or temporary permit submit a complete and legible set of fingerprints, on a form prescribed by the advisory board, to the advisory board or to the Department of Public Safety for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation.

(b) The advisory board may not issue a certificate or temporary permit to a person who does not comply with the requirement of Subsection (a).

(c) The advisory board shall conduct a criminal history check of each applicant for a certificate or temporary permit using information:

(1) provided by the individual under this section; and

(2) made available to the advisory board by the Department of Public Safety, the Federal Bureau of Investigation, and any other criminal justice agency under Chapter 411, Government Code.

(d) The advisory board may:

(1) enter into an agreement with the Department of Public Safety to administer a criminal history check required under this section; and

(2) authorize the Department of Public Safety to collect from each applicant the costs incurred by the Department of Public Safety in conducting the criminal history check.

SECTION 2.164. Section 604.104, Occupations Code, is amended to read as follows:

Sec. 604.104. REQUIREMENT FOR CERTIFICATE. An applicant for a certificate must submit to the advisory board [department] written evidence, verified by oath, that the applicant has completed:

(1) an approved four-year high school course of study or the equivalent as determined by the appropriate educational agency; and

(2) a respiratory care education program approved by the advisory board [department].

SECTION 2.165. Section 604.1041, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 604.1041. EXAMINATION. (a) The advisory board [executive commissioner] by rule shall establish examination requirements for a certificate under this chapter. The advisory board [executive commissioner] may use the entry level examination prepared by the National Board for Respiratory Care or an equivalent examination.

(b) An applicant for a certificate or temporary permit must pass a jurisprudence examination approved by the advisory board.

SECTION 2.166. Section 604.1042, Occupations Code, is amended to read as follows:

Sec. 604.1042. NOTIFICATION OF EXAMINATION RESULTS. (a) Not later than the 30th day after the date a person takes a certification examination under this chapter, the advisory board [department] shall notify the person of the results of the examination.

(b) If the examination is graded or reviewed by a testing service, the advisory board [department] shall notify the person of the results of the examination not later than the 14th day after the date the advisory board [department] receives the results from the testing service. If notice of the examination results will be delayed for longer than 90 days after the examination date, the advisory board [department] shall notify the person of the reason for the delay before the 90th day.

(c) The advisory board [department] may require a testing service to notify a person of the results of the person's examination.

(d) If requested in writing by a person who fails a certification examination

administered under this chapter, the *advisory board* [department] shall furnish the person with an analysis of the person's performance on the examination.

SECTION 2.167. Section 604.105, Occupations Code, is amended to read as follows:

Sec. 604.105. **ISSUANCE OF CERTIFICATE.** The *advisory board* [department] shall issue a certificate to an applicant who:

- (1) meets the minimum *qualifications* [standards] adopted under Section 604.052(a);
- (2) *passes the required examinations;*
- (3) *complies with the criminal history record information requirement of Section 604.1031;*
- (4) *submits an application on a form prescribed by the advisory board;*
- (5) *certifies that the applicant is mentally and physically able to be a respiratory care practitioner;*
- (6) *submits to the advisory board any other information the advisory board considers necessary to evaluate the applicant's qualifications; and*
- (7) pays the certificate fee.

SECTION 2.168. Section 604.106, Occupations Code, is amended to read as follows:

Sec. 604.106. **ISSUANCE OF CERTIFICATE BY RECIPROCITY.** The *advisory board* [department] may issue a certificate to a person who is licensed or certified to practice respiratory care by another state whose requirements for licensure or certification were on the date the license or certificate was issued substantially equal to the requirements of this chapter.

SECTION 2.169. Section 604.107, Occupations Code, is amended to read as follows:

Sec. 604.107. **REQUIREMENTS FOR TEMPORARY PERMIT.** An applicant for a temporary permit to practice respiratory care must submit to the *advisory board*:

- (1) [department] written evidence, verified by oath, that the applicant is:
 - (A) [(1)] practicing or has within the 12-month period preceding the application date practiced respiratory care in another state or country and is licensed to practice respiratory care in that state or country;
 - (B) [(2)] a student in an approved respiratory care education program who expects to graduate from the program not later than the 30th day after the date the temporary permit is issued; or
 - (C) [(3)] a graduate of an approved respiratory care education program; and
- (2) *any additional information required by advisory board rules.*

SECTION 2.170. Section 604.108, Occupations Code, is amended by amending Subsection (a) and Subsection (b), as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to read as follows:

(a) The *advisory board* [department] shall issue a temporary permit to an applicant who:

- (1) meets the requirements of Sections 604.103 and 604.107;
- (2) *complies with the criminal history record information requirement of Section 604.1031; and*
- (3) pays the permit fee.

(b) A temporary permit is valid for the period set by *advisory board* [department] rule. The period may not be less than six months or more than 12 months.

SECTION 2.171. Subchapter C, Chapter 604, Occupations Code, is amended by adding Section 604.110 to read as follows:

Sec. 604.110. **DELEGATION OF AUTHORITY TO ISSUE CERTIFICATE OR TEMPORARY PERMIT.** The *advisory board* may delegate authority to medical board employees to issue certificates or temporary permits under this chapter to applicants who

clearly meet all applicable requirements. If the medical board employees determine that the applicant does not clearly meet all applicable requirements, the application must be returned to the advisory board. A certificate or temporary permit issued under this section does not require formal advisory board approval.

SECTION 2.172. Section 604.151(b), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(b) The *advisory board* [~~executive commissioner~~] by rule may adopt a system under which certificates expire on various dates during the year. For the year in which the certificate expiration date is changed, the *advisory board* [~~department~~] shall prorate certificate fees on a monthly basis so that each certificate holder pays only that portion of the certificate fee that is allocable to the number of months during which the certificate is valid. On renewal of the certificate on the new expiration date, the total certificate renewal fee is payable.

SECTION 2.173. Section 604.152, Occupations Code, is amended to read as follows:

Sec. 604.152. NOTICE OF CERTIFICATE RENEWAL. (a) Not later than the 30th day before the expiration date of a person's certificate, the *advisory board* [~~department~~] shall mail a renewal notice to the person at the person's last known address.

(b) To renew a certificate, the certificate holder must:

(1) complete the renewal notice and return the notice with the renewal fee to the *advisory board* [~~department~~] on or before the expiration date; and

(2) meet any other requirement established by advisory board rule.

SECTION 2.174. Sections 604.1521(a) and (b), Occupations Code, are amended to read as follows:

(a) A person whose certificate has been expired for 90 days or less may renew the certificate by paying to the *advisory board* [~~department~~] a renewal fee that is equal to 1–1/2 times the normally required renewal fee.

(b) A person whose certificate has been expired for more than 90 days but less than one year may renew the certificate by paying to the *advisory board* [~~department~~] a renewal fee that is equal to two times the normally required renewal fee.

SECTION 2.175. Section 604.1522(b), Occupations Code, is amended to read as follows:

(b) The person must pay to the *advisory board* [~~department~~] a fee that is equal to two times the normally required renewal fee for the certificate.

SECTION 2.176. Subchapter D, Chapter 604, Occupations Code, is amended by adding Section 604.1523 to read as follows:

Sec. 604.1523. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR RENEWAL. (a) An applicant for renewal of a certificate or temporary permit shall submit a complete and legible set of fingerprints for purposes of performing a criminal history check of the applicant as provided by Section 604.1031.

(b) The advisory board may not renew the certificate or temporary permit of a person who does not comply with the requirement of Subsection (a).

(c) A person is not required to submit fingerprints under this section for the renewal of a certificate or temporary permit if the person has previously submitted fingerprints under:

(1) Section 604.1031 for the initial issuance of the certificate or permit; or

(2) this section as part of a prior renewal of a certificate or permit.

SECTION 2.177. Section 604.153(a), Occupations Code, is amended to read as follows:

(a) The *advisory board* [~~department~~] shall issue to the certificate holder a certificate for the renewal period on receipt of the completed renewal notice and other information required by advisory board rule and payment of the renewal fee.

SECTION 2.178. Section 604.154, Occupations Code, as amended by S.B. 219, Acts

of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 604.154. CONTINUING EDUCATION REQUIREMENTS. (a) The *advisory board* ~~[executive commissioner]~~ shall establish for the renewal of a certificate uniform continuing education requirements of not less than 12 or more than 24 continuing education hours for each renewal period.

(b) The *advisory board* ~~[executive commissioner]~~ may adopt rules relating to meeting the continuing education requirements in a hardship situation.

SECTION 2.179. Section 604.156, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 604.156. INACTIVE STATUS. (a) A respiratory care practitioner who does not practice respiratory care during a renewal period and who notifies the *advisory board* ~~[department]~~ that the practitioner is not practicing respiratory care is not required to pay the renewal fee until the practitioner resumes practice.

(b) To resume the practice of respiratory care, the practitioner must:

- (1) notify the *advisory board* ~~[department]~~;
- (2) satisfy requirements adopted by the *advisory board* ~~[executive commissioner]~~; and
- (3) pay the reinstatement fee and the renewal fee for the renewal period in which the practitioner will resume practice.

SECTION 2.180. Section 604.157(b), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(b) The *advisory board* ~~[department]~~ may renew a temporary permit for not more than one additional period, pending compliance with this chapter and *advisory board* ~~[department]~~ rules. The additional period may not be less than six months or more than 12 months.

SECTION 2.181. Chapter 604, Occupations Code, is amended by adding Subchapter D–1 to read as follows:

SUBCHAPTER D–1. COMPLAINTS AND INVESTIGATIVE INFORMATION

Sec. 604.171. COMPLAINT INFORMATION AND STATUS. (a) *The advisory board shall maintain a system to promptly and efficiently act on complaints filed with the advisory board. The advisory board shall maintain:*

- (1) *information about the parties to the complaint and the subject matter of the complaint;*
- (2) *a summary of the results of the review or investigation of the complaint; and*
- (3) *information about the disposition of the complaint.*

(b) *The advisory board shall make information available describing its procedures for complaint investigation and resolution.*

(c) *If a written complaint is filed with the advisory board relating to a certificate or temporary permit holder, the advisory board, as often as quarterly and until final determination of the action to be taken on the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an active investigation.*

Sec. 604.172. CONDUCT OF INVESTIGATION. *The advisory board shall complete a preliminary investigation of a complaint filed with the advisory board not later than the 45th day after the date of receiving the complaint. The advisory board shall first determine whether the person constitutes a continuing threat to the public welfare. On completion of the preliminary investigation, the advisory board shall determine whether to officially proceed on the complaint. If the advisory board fails to complete the preliminary investigation in the time required by this section, the advisory board's official investigation of the complaint is considered to commence on that date.*

Sec. 604.173. ACCESS TO COMPLAINT INFORMATION. (a) Except as provided by Subsection (b), the advisory board shall provide a person who is the subject of a formal complaint filed under this chapter with access to all information in its possession that the advisory board intends to offer into evidence in presenting its case in chief at the contested hearing on the complaint, subject to any other privilege or restriction established by rule, statute, or legal precedent. The advisory board shall provide the information not later than the 30th day after receipt of a written request from the person or the person's counsel, unless good cause is shown for delay.

(b) The advisory board is not required to provide:

- (1) advisory board investigative reports;*
- (2) investigative memoranda;*
- (3) the identity of a nontestifying complainant;*
- (4) attorney-client communications;*
- (5) attorney work product; or*
- (6) other material covered by a privilege recognized by the Texas Rules of Civil Procedure or the Texas Rules of Evidence.*

(c) Providing information under this section does not constitute a waiver of privilege or confidentiality under this chapter or other law.

Sec. 604.174. HEALTH CARE ENTITY REQUEST FOR INFORMATION. On the written request of a health care entity, the advisory board shall provide to the entity:

(1) information about a complaint filed against a person that was resolved after investigation by:

- (A) a disciplinary order of the advisory board; or*
- (B) an agreed settlement; and*

(2) the basis of and current status of any complaint that has been referred by the executive director of the medical board for enforcement action.

Sec. 604.175. CONFIDENTIALITY OF INVESTIGATIVE INFORMATION. A complaint, adverse report, investigation file, other report, or other investigative information in the possession of or received or gathered by the advisory board, the medical board, or an employee or agent of the medical board relating to a certificate or temporary permit holder, an application for a certificate or temporary permit, or a criminal investigation or proceeding is privileged and confidential and is not subject to discovery, subpoena, or other means of legal compulsion for release to any person other than the advisory board, the medical board, or an employee or agent of the advisory board or medical board involved in discipline under this chapter. For purposes of this section, "investigative information" includes information related to the identity of a person performing or supervising compliance monitoring for the advisory board or medical board and a report prepared by the person related to compliance monitoring.

Sec. 604.176. PERMITTED DISCLOSURE OF INVESTIGATIVE INFORMATION. (a) Investigative information in the possession of the advisory board, the medical board, or an employee or agent of the medical board that relates to the discipline of a certificate or temporary permit holder may be disclosed to:

- (1) a licensing authority in another state or country in which the certificate or temporary permit holder is licensed, certified, or permitted or has applied for a license, certification, or permit; or*
- (2) a medical peer review committee reviewing:*
 - (A) an application for privileges; or*
 - (B) the qualifications of the certificate holder or person with respect to retaining privileges.*

(b) If investigative information in the possession of the advisory board, the medical board, or an employee or agent of the medical board indicates that a crime may have

been committed, the advisory board or medical board, as appropriate, shall report the information to the proper law enforcement agency. The advisory board and medical board shall cooperate with and assist each law enforcement agency conducting a criminal investigation of a certificate or temporary permit holder by providing information relevant to the investigation. Confidential information disclosed to a law enforcement agency under this subsection remains confidential and may not be disclosed by the law enforcement agency except as necessary to further the investigation.

SECTION 2.182. Section 604.201, Occupations Code, is amended to read as follows:

Sec. 604.201. **DISCIPLINARY ACTION.** (a) For a violation of this chapter or a rule adopted under this chapter, the *advisory board* ~~[department]~~ may:

- (1) deny, suspend, suspend on an emergency basis, *restrict*, revoke, or refuse to renew a certificate or temporary permit;
- (2) place the certificate or permit holder on probation under conditions set by the *advisory board* ~~[department]~~; or
- (3) reprimand the certificate or permit holder.

(b) The *advisory board* ~~[department]~~ shall take disciplinary action authorized under Subsection (a) if the *advisory board* ~~[department]~~ determines that a person who holds a certificate or temporary permit:

- (1) is guilty of fraud or deceit in procuring, renewing, or attempting to procure a certificate or temporary permit;
- (2) is unfit or incompetent because of negligence or another cause of incompetency;
- (3) is addicted to or has improperly obtained, possessed, used, or distributed a habit-forming drug or narcotic or is habitually intemperate in the use of alcoholic beverages;
- (4) is guilty of dishonest or unethical conduct as determined by the *advisory board* ~~[department]~~;
- (5) has practiced respiratory care after the person's certificate or temporary permit has expired;
- (6) has practiced respiratory care under a certificate or temporary permit illegally or fraudulently obtained or issued;
- (7) has practiced respiratory care without the direction of a qualified medical director or other licensed physician; ~~or~~
- (8) has violated this chapter or aided or abetted another in violating this chapter; or
- (9) *has violated:*
 - (A) *a rule adopted under this chapter;*
 - (B) *an order of the advisory board previously entered in a disciplinary proceeding;*or
 - (C) *an order to comply with a subpoena issued under this chapter.*

SECTION 2.183. Subchapter E, Chapter 604, Occupations Code, is amended by adding Section 604.2011 to read as follows:

Sec. 604.2011. **SURRENDER OF CERTIFICATE OR TEMPORARY PERMIT.** (a) *The advisory board may accept the voluntary surrender of a certificate or temporary permit. A person who has surrendered a certificate or temporary permit may not engage in activities that require a certificate or permit, and the advisory board may not return the certificate or permit to the person, until the person demonstrates to the satisfaction of the advisory board that the person is able to resume practice as a respiratory care practitioner.*

(b) *The advisory board shall by rule establish guidelines for determining when a person is competent to resume practice as a respiratory care practitioner.*

SECTION 2.184. Section 604.202, Occupations Code, is amended to read as follows:

Sec. 604.202. **EMERGENCY SUSPENSION.** (a) *The presiding officer of the advisory board shall appoint a three-member disciplinary panel consisting of advisory board members to determine whether a certificate or permit should be temporarily suspended.*

(a-1) *The disciplinary panel shall temporarily ~~[department may]~~ suspend a certificate or temporary permit issued under this chapter on a determination that continued practice by a certificate or temporary permit holder would constitute a continuing threat to the public welfare ~~[the health and safety of a person is threatened and may make the suspension effective immediately].~~*

(b) A ~~[person whose]~~ certificate or temporary permit may be ~~[is]~~ suspended under this section without notice or hearing on the complaint if:

(1) *action is taken to initiate proceedings for ~~[is entitled to]~~ a hearing before the advisory board simultaneously with the temporary suspension; and*

(2) *a hearing is held as soon as practicable under this chapter and Chapter 2001, Government Code ~~[department not later than the 10th day after the effective date of the emergency suspension].~~*

(c) *Notwithstanding Chapter 551, Government Code, the disciplinary panel may hold a meeting by telephone conference call if immediate action is required and convening of the panel at one location is inconvenient for any member of the panel.*

SECTION 2.185. Section 604.203, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 604.203. **ADMINISTRATIVE ~~[DISCIPLINARY]~~ PROCEDURE FOR CONTESTED CASE HEARING.** *For a contested case hearing in which a formal complaint has been filed under this chapter, the ~~[The]~~ procedure by which the advisory board ~~[department]~~ takes a disciplinary action and the procedure by which a disciplinary action is appealed are governed by:*

(1) *advisory board ~~[department]~~ rules for a contested case hearing; and*

(2) *Chapter 2001, Government Code.*

SECTION 2.186. Subchapter E, Chapter 604, Occupations Code, is amended by adding Sections 604.205 through 604.214 to read as follows:

Sec. 604.205. **DELEGATION OF CERTAIN COMPLAINT DISPOSITIONS.** (a) *The advisory board may delegate to a committee of medical board employees the authority to dismiss or enter into an agreed settlement of a complaint that does not relate directly to patient care or that involves only administrative violations. The disposition determined by the committee must be approved by the advisory board at a public meeting.*

(b) *A complaint delegated under this section shall be referred for an informal proceeding under Section 604.209 if:*

(1) *the committee of employees determines that the complaint should not be dismissed or settled;*

(2) *the committee is unable to reach an agreed settlement; or*

(3) *the affected person requests that the complaint be referred for an informal proceeding.*

Sec. 604.206. **SUBPOENA.** (a) *The executive director of the medical board, the director's designee, or the secretary-treasurer of the medical board may issue a subpoena or subpoena duces tecum for the advisory board:*

(1) *to conduct an investigation or a contested proceeding related to:*

(A) *alleged misconduct by a certificate or temporary permit holder;*

(B) *an alleged violation of this chapter or other law related to respiratory care; or*

(C) *the provision of health care under this chapter; or*

(2) *for purposes of determining whether to issue, suspend, restrict, or revoke a certificate or temporary permit under this chapter.*

(b) *Failure to timely comply with a subpoena issued under this section is a ground for:*

(1) disciplinary action by the advisory board or another licensing or regulatory agency with jurisdiction over the person subject to the subpoena; and

(2) denial of an application for a certificate or temporary permit.

Sec. 604.207. PROTECTION OF PATIENT IDENTITY. *In a disciplinary investigation or proceeding conducted under this chapter, the advisory board shall protect the identity of each patient whose medical records are examined and used in a public proceeding unless the patient:*

(1) testifies in the public proceeding; or

(2) submits a written release in regard to the patient's records or identity.

Sec. 604.208. REQUIRED SUSPENSION OF LICENSE OF INCARCERATED CERTIFICATE OR TEMPORARY PERMIT HOLDER. *Regardless of the offense, the advisory board shall suspend the certificate or temporary permit of a person serving a prison term in a state or federal penitentiary during the term of the incarceration.*

Sec. 604.209. INFORMAL PROCEEDINGS. (a) *The advisory board by rule shall adopt procedures governing:*

(1) informal disposition of a contested case under Section 2001.056, Government Code; and

(2) informal proceedings held in compliance with Section 2001.054, Government Code.

(b) *Rules adopted under this section must require that:*

(1) *an informal meeting in compliance with Section 2001.054, Government Code, be scheduled and the advisory board give notice to the person who is the subject of a complaint of the time and place of the meeting not later than the 45th day before the date the meeting is held;*

(2) *the complainant and the person who is the subject of the complaint be provided an opportunity to be heard;*

(3) *at least one of the advisory board members participating in the informal meeting as a panelist be a member who represents the public;*

(4) *a member of the medical board's staff be at the meeting to present to the advisory board's representative the facts the staff reasonably believes it could prove by competent evidence or qualified witnesses at a hearing; and*

(5) *the advisory board's legal counsel or a representative of the attorney general be present to advise the advisory board or the medical board's staff.*

(c) *The person who is the subject of the complaint is entitled to:*

(1) *reply to the staff's presentation; and*

(2) *present the facts the person reasonably believes the person could prove by competent evidence or qualified witnesses at a hearing.*

(d) *After ample time is given for the presentations, the advisory board representative shall recommend that the investigation be closed or shall attempt to mediate the disputed matters and make a recommendation regarding the disposition of the case in the absence of a hearing under applicable law concerning contested cases.*

(e) *If the person who is the subject of the complaint has previously been the subject of disciplinary action by the advisory board, the advisory board shall schedule the informal meeting as soon as practicable.*

(f) *Section 604.175 applies to an investigation file and investigative information in the possession of or used by the advisory board in an informal proceeding under this section.*

Sec. 604.210. ADVISORY BOARD REPRESENTATION IN INFORMAL PROCEEDINGS. (a) *In an informal meeting under Section 604.209, at least two panelists shall be appointed to determine whether an informal disposition is appropriate.*

(b) *Notwithstanding Subsection (a) and Section 604.209(b)(3), an informal proceeding*

may be conducted by one panelist if the person who is the subject of the complaint waives the requirement that at least two panelists conduct the informal proceeding. If the person waives that requirement, the panelist may be any member of the advisory board.

(c) Except as provided by Subsection (d), the panel requirements described by Subsections (a) and (b) apply to an informal proceeding conducted by the advisory board under Section 604.209, including a proceeding to:

- (1) consider a disciplinary case to determine if a violation has occurred; or
- (2) request modification or termination of an order.

(d) The panel requirements described by Subsections (a) and (b) do not apply to an informal proceeding conducted by the advisory board under Section 604.209 to show compliance with an order of the advisory board.

Sec. 604.211. **ROLES AND RESPONSIBILITIES OF PARTICIPANTS IN INFORMAL PROCEEDINGS.** (a) An advisory board member who serves as a panelist at an informal meeting under Section 604.209 shall make recommendations for the disposition of a complaint or allegation. The member may request the assistance of a medical board employee at any time.

(b) Medical board employees shall present a summary of the allegations against the person who is the subject of the complaint and of the facts pertaining to the allegation that the employees reasonably believe may be proven by competent evidence at a formal hearing.

(c) An attorney for the advisory board or medical board shall act as counsel to the panel and, notwithstanding Subsection (e), shall be present during the informal meeting and the panel's deliberations to advise the panel on legal issues that arise during the proceeding. The attorney may ask questions of a participant in the informal meeting to clarify any statement made by the participant. The attorney shall provide to the panel a historical perspective on comparable cases that have appeared before the advisory board or medical board, keep the proceedings focused on the case being discussed, and ensure that the medical board's employees and the person who is the subject of the complaint have an opportunity to present information related to the case. During the panel's deliberations, the attorney may be present only to advise the panel on legal issues and to provide information on comparable cases that have appeared before the advisory board or medical board.

(d) The panel and medical board employees shall provide an opportunity for the person who is the subject of the complaint and the person's authorized representative to reply to the medical board employees' presentation and to present oral and written statements and facts that the person and representative reasonably believe could be proven by competent evidence at a formal hearing.

(e) An employee of the medical board who participated in the presentation of the allegation or information gathered in the investigation of the complaint, the person who is the subject of the complaint, the person's authorized representative, the complainant, the witnesses, and members of the public may not be present during the deliberations of the panel. Only the members of the panel and the attorney serving as counsel to the panel may be present during the deliberations.

(f) The panel shall recommend the dismissal of the complaint or allegations or, if the panel determines that the person has violated a statute or advisory board rule, the panel may recommend advisory board action and terms for an informal settlement of the case.

(g) The panel's recommendations under Subsection (f) must be made in a written order and presented to the affected person and the person's authorized representative. The person may accept the proposed settlement within the time established by the panel at the informal meeting. If the person rejects the proposed settlement or does not act within the required time, the advisory board may proceed with the filing of a formal complaint with the State Office of Administrative Hearings.

Sec. 604.212. **LIMIT ON ACCESS TO INVESTIGATION FILES.** The advisory board shall prohibit or limit access to an investigation file relating to a person subject to an

informal proceeding in the manner provided by Sections 164.007(c) and 604.175.

Sec. 604.213. REFUND. (a) Subject to Subsection (b), the advisory board may order a certificate or temporary permit holder to pay a refund to a consumer as provided in an agreement resulting from an informal settlement conference instead of or in addition to imposing an administrative penalty under Subchapter F.

(b) The amount of a refund ordered as provided in an agreement resulting from an informal settlement conference may not exceed the amount the consumer paid to the certificate or temporary permit holder for a service regulated by this chapter. The advisory board may not require payment of other damages or estimate harm in a refund order.

Sec. 604.214. EXPERT IMMUNITY. An expert who assists the advisory board is immune from suit and judgment and may not be subjected to a suit for damages for any investigation, report, recommendation, statement, evaluation, finding, or other action taken in the course of assisting the advisory board in a disciplinary proceeding. The attorney general shall represent the expert in any suit resulting from a service provided by the person in good faith to the advisory board.

SECTION 2.187. Section 604.301, Occupations Code, is amended to read as follows:

Sec. 604.301. IMPOSITION OF PENALTY. The *advisory board* [department] may impose an administrative penalty on a person who violates this chapter or a rule adopted under this chapter.

SECTION 2.188. Section 604.303, Occupations Code, is amended to read as follows:

Sec. 604.303. NOTICE OF VIOLATION AND PENALTY. If, after investigation of a possible violation and the facts surrounding the possible violation, the *advisory board* [department] determines that a violation occurred, the *advisory board* [department] shall give written notice of the violation to the person alleged to have committed the violation. The notice must:

- (1) include a brief summary of the alleged violation;
- (2) state the amount of the proposed administrative penalty based on the factors set forth in Section 604.302(b); and
- (3) inform the person of the person's right to a hearing on the occurrence of the violation, the amount of the penalty, or both.

SECTION 2.189. Section 604.304, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 604.304. PENALTY TO BE PAID OR HEARING REQUESTED. (a) Not later than the 20th day after the date the person receives the notice under Section 604.303, the person may:

- (1) accept the *advisory board's* [department's] determination and proposed administrative penalty; or
- (2) make a written request for a hearing on that determination.

(b) If the person accepts the [department's] determination, the *advisory board* [department] by order shall approve the determination and assess the proposed penalty.

SECTION 2.190. Section 604.305, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 604.305. HEARING. (a) If the person requests a hearing in a timely manner, the *advisory board* [department] shall:

- (1) set a hearing; and
 - (2) give written notice of the hearing to the person.
- (b) The hearings examiner shall:
- (1) make findings of fact and conclusions of law; and
 - (2) promptly issue to the *advisory board* [department] a proposal for decision as to the occurrence of the violation and the amount of any proposed administrative penalty.

SECTION 2.191. Section 604.306, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 604.306. DECISION BY *ADVISORY BOARD* [DEPARTMENT]. (a) Based on the findings of fact, conclusions of law, and proposal for decision, the *advisory board* [department] by order may determine that:

- (1) a violation occurred and impose an administrative penalty; or
- (2) a violation did not occur.

(b) The *advisory board* [department] shall give notice of the order to the person. The notice must include:

- (1) separate statements of the findings of fact and conclusions of law;
- (2) the amount of any penalty imposed; and
- (3) a statement of the person's right to judicial review of the order.

SECTION 2.192. Sections 604.307(b) and (c), Occupations Code, are amended to read as follows:

(b) Within the 30-day period, a person who acts under Subsection (a)(3) may:

(1) stay enforcement of the penalty by:

- (A) paying the penalty to the court for placement in an escrow account; or
- (B) giving to the court a supersedeas bond approved by the court that:
 - (i) is for the amount of the penalty; and
 - (ii) is effective until judicial review of the order is final; or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the penalty and is financially unable to give the supersedeas bond; and

(B) giving a copy of the affidavit to the *advisory board* [department] by certified mail.

(c) If the *advisory board* [department] receives a copy of an affidavit under Subsection (b)(2), the *advisory board* [department] may file with the court a contest to the affidavit not later than the fifth day after the date the copy is received.

SECTION 2.193. Section 604.308, Occupations Code, is amended to read as follows:

Sec. 604.308. COLLECTION OF PENALTY. If the person does not pay the penalty and enforcement of the penalty is not stayed, the *advisory board* [department] may refer the matter to the attorney general for collection of the penalty.

SECTION 2.194. Section 604.311, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 604.311. ADMINISTRATIVE PENALTY EXPENSES AND COSTS. (a) In this section, "reasonable expenses and costs" includes expenses incurred by the *advisory board* [department] or the attorney general in the investigation, initiation, or prosecution of an action, including reasonable investigative costs, court costs, attorney's fees, witness fees, and deposition expenses.

(b) The *advisory board* [department] may assess reasonable expenses and costs against a person in an administrative hearing if, as a result of the hearing, an administrative penalty is assessed against the person. The person shall pay expenses and costs assessed under this subsection not later than the 30th day after the date the order of the *advisory board* [department] requiring the payment of expenses and costs is final. The *advisory board* [department] may refer the matter to the attorney general for collection of the expenses and costs.

(c) If the attorney general brings an action against a person to enforce an administrative penalty assessed under this subchapter and the person is found liable for an

administrative penalty, the attorney general may recover, on behalf of the attorney general and the *advisory board* [department], reasonable expenses and costs.

SECTION 2.195. The heading to Subchapter G, Chapter 604, Occupations Code, is amended to read as follows:

SUBCHAPTER G. CRIMINAL PENALTIES AND ENFORCEMENT PROVISIONS

SECTION 2.196. Section 604.352(a), Occupations Code, is amended to read as follows:

(a) A person commits an offense if the person knowingly:

(1) sells, fraudulently obtains, or furnishes a respiratory care diploma, certificate, temporary permit, or record;

(2) practices respiratory care under a respiratory care diploma, certificate, temporary permit, or record illegally or fraudulently obtained or issued;

(3) impersonates in any manner a respiratory care practitioner;

(4) practices respiratory care while the person's certificate or temporary permit is suspended, revoked, or expired;

(5) conducts a formal respiratory care education program to prepare respiratory care personnel other than a program approved by the *advisory board* [department];

(6) employs a person as a respiratory care practitioner who does not hold a certificate or temporary permit in the practice of respiratory care; or

(7) otherwise practices medicine in violation of Section 604.002.

SECTION 2.197. The following provisions of the Occupations Code, including provisions amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, are repealed:

- (1) Sections 601.002(2) and (5);
- (2) Section 601.051;
- (3) Section 601.053;
- (4) Section 601.056(b);
- (5) Section 601.103;
- (6) Sections 602.002(1-a) and (2);
- (7) Sections 602.052(b) and (c);
- (8) Sections 602.053(a), (b), and (c);
- (9) Section 602.056(c);
- (10) Section 602.059;
- (11) Subchapter C, Chapter 602;
- (12) Sections 602.1525(b), (c), (d), (e), (f), and (g);
- (13) Section 602.155;
- (14) Section 602.204;
- (15) Sections 603.002(1) and (4);
- (16) Section 603.005;
- (17) Section 603.054(c);
- (18) Section 603.058;
- (19) Subchapter C, Chapter 603;
- (20) Section 603.154(b);
- (21) Section 603.158;
- (22) Section 603.159;

- (23) Sections 603.2041(b), (c), (d), (f), and (g);
- (24) Section 604.051;
- (25) Sections 604.052(b) and (c); and
- (26) Section 604.056.

SECTION 2.198. Sections 601.1031, 601.1111, 602.2081, 602.2101, 603.2571, 603.3031, 604.1031, and 604.1523, Occupations Code, as added by this article, apply only to an application for the issuance or renewal of a license, certificate, or permit filed under Chapter 601, 602, 603, or 604, Occupations Code, on or after January 1, 2016. An application filed before that date is governed by the law in effect at the time the application was filed, and the former law is continued in effect for that purpose.

SECTION 2.199. (a) A rule or fee of the Department of State Health Services that relates to a program transferred under this article and that is in effect on the effective date of this Act remains in effect until changed by the Texas Medical Board, the Texas Board of Medical Radiologic Technology, or the Texas Board of Respiratory Care, as appropriate.

(b) A license, certificate, or permit issued by the Department of State Health Services for a program transferred under this article is continued in effect as a license, certificate, or permit of the Texas Medical Board, the Texas Board of Medical Radiologic Technology, or the Texas Board of Respiratory Care, as appropriate, after the effective date of this Act.

(c) A complaint, investigation, contested case, or other proceeding before the Department of State Health Services relating to a program transferred under this article that is pending on the effective date of this Act is transferred without change in status to the Texas Medical Board, the Texas Board of Medical Radiologic Technology, or the Texas Board of Respiratory Care, as appropriate.

SECTION 2.200. (a) As soon as practicable after the effective date of this Act, the Department of State Health Services and the Texas Medical Board shall adopt a transition plan to provide for the orderly transfer of powers, duties, functions, programs, and activities under this article. The transition plan must provide for the transfer to be completed as soon as practicable after the effective date of this Act.

(b) The Department of State Health Services shall provide the Texas Medical Board with access to any systems or information necessary for the Texas Medical Board to accept a program transferred under this article.

(c) On the effective date of this Act, the Texas Board of Licensure for Professional Medical Physicists and the Texas State Perfusionist Advisory Committee are abolished and the governor and the president of the Texas Medical Board, as appropriate, shall, as soon as practicable after the effective date of this Act, appoint the members of the Texas Board of Medical Radiologic Technology, the Medical Physicist Licensure Advisory Committee, the Perfusionist Licensure Advisory Committee, and the Texas Board of Respiratory Care.

(d) On the effective date of this Act, all full-time equivalent employee positions at the Department of State Health Services that primarily concern the administration or enforcement of Chapter 601, 602, 603, or 604, Occupations Code, become positions at the Texas Medical Board. The Texas Medical Board shall post the positions for hiring and, when filling the positions, shall give consideration to, but is not required to hire, an applicant who, immediately before the effective date of this Act, was an employee at the Department of State Health Services primarily involved in administering or enforcing the applicable law.

ARTICLE 3. DEREGULATION OF CERTAIN ACTIVITIES AND OCCUPATIONS

SECTION 3.001. Section 2165.303(b), Government Code, is amended to read as follows:

- (b) The commission shall report the findings and test results obtained under a contract

for air monitoring under this section to the office ~~[and the department]~~ in a form and manner prescribed by the office ~~[and the department]~~ for that purpose.

SECTION 3.002. Section 2165.305(c), Government Code, is amended to read as follows:

(c) In developing a seminar required by this section, the office shall receive assistance from:

- (1) the commission; *and*
- (2) ~~[the department; and~~

~~[(3)]~~ an entity that specializes in research and technical assistance related to indoor air quality but does not receive appropriations from the state.

SECTION 3.003. The heading to Subtitle G, Title 2, Health and Safety Code, is amended to read as follows:

SUBTITLE G. LICENSES AND OTHER REGULATION

SECTION 3.004. The heading to Subchapter C, Chapter 144, Health and Safety Code, is amended to read as follows:

SUBCHAPTER C. OPERATING PROCEDURES ~~[FOR ALL LICENSE HOLDERS]~~

SECTION 3.005. Section 144.021, Health and Safety Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 144.021. GENERAL REQUIREMENTS FOR *RENDERING OPERATIONS* ~~[OPERATING LICENSES]~~. ~~[(a)]~~ Each *rendering establishment, related station, transfer station, dead animal hauler, or renderable raw material hauler* ~~[applicant for or holder of an operating license]~~ shall adopt operating procedures that:

- (1) provide for the sanitary performance of rendering operations and processes;
- (2) prevent the spread of infectious or noxious materials; and
- (3) ensure that finished products are free from disease-producing organisms.

~~[(b) As a condition of licensure, the department, in accordance with department rules, may prescribe other reasonable and appropriate construction, operational, maintenance, and inspection requirements to ensure compliance with this chapter and other applicable rules.]~~

SECTION 3.006. Section 144.022, Health and Safety Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 144.022. RECORDS. (a) Each ~~[licensed]~~ rendering establishment, related station, or dead animal hauler shall have a dead animal log that meets the requirements prescribed by department rule. The name of the ~~[licensed]~~ rendering establishment, related station, or dead animal hauler must be on the front of the log.

(b) *A rendering establishment, related station, or dead animal hauler that* ~~[When a license holder]~~ receives a dead animal~~], the license holder]~~ shall enter the following information in the log:

- (1) the date and time of the pickup of the dead animal;
- (2) the name of the driver of the collection vehicle;
- (3) a description of the dead animal;
- (4) the location of the dead animal, including the county; and
- (5) the owner of the dead animal, if known.

(c) The *rendering establishment, related station, or dead animal hauler* ~~[license holder]~~ shall also keep a record in the log, or in an appendix to the log, of the general route followed in making the collection.

(d) The log is subject to inspection at all reasonable times by the department or a person with written authorization from the department. ~~[Repeated or wilful failure or refusal to produce the log for inspection or to permit inspection by persons properly authorized to inspect the log constitutes grounds for license revocation.]~~

(e) This section does not apply to a ~~[licensed]~~ renderable raw material hauler.

SECTION 3.007. The heading to Section 144.023, Health and Safety Code, is amended to read as follows:

Sec. 144.023. VEHICLES~~[-PERMIT REQUIRED]~~.

SECTION 3.008. Section 144.023(c), Health and Safety Code, is amended to read as follows:

(c) A truck bed used to transport dead animals or renderable raw materials shall be thoroughly washed and sanitized before use for the transport of finished rendered products. A truck bed used to transport dead animals or renderable raw materials to a rendering establishment, or to transfer finished rendered products from an establishment, shall, before being used to transport any product intended for human consumption, be thoroughly sanitized with a bactericidal agent that is ~~[determined by the department to be]~~ safe for use in a rendering establishment. A truck bed may not be used to transport dead animals or renderable raw materials at the same time the truck bed or any part of the truck bed is used to transport any product intended for human consumption, notwithstanding the manner in which part of the truck bed is sealed or separated from the remainder of the bed.

SECTION 3.009. Section 144.027(c), Health and Safety Code, is amended to read as follows:

(c) A drinking water supply ~~[approved by the department]~~ shall be provided at convenient locations in the establishment for the use of employees.

SECTION 3.010. Section 144.078(a), Health and Safety Code, is amended to read as follows:

(a) ~~The~~ ~~[On request of the department, the]~~ attorney general may bring an action in any district court of this state that has jurisdiction and venue for an injunction to compel compliance with this chapter or to restrain any actual or threatened violation of this chapter.

SECTION 3.011. Section 144.079(c), Health and Safety Code, is amended to read as follows:

(c) A renderer, hauler, or any other person may not~~[-~~

~~[(1) take possession of recyclable cooking oil from an unlicensed hauler or an employee or contractor of an unlicensed hauler; or~~

~~[(2)] knowingly take possession of stolen recyclable cooking oil.~~

SECTION 3.012. Sections 145.006(a) and (b), Health and Safety Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, are amended to read as follows:

(a) A tanning facility shall post a warning sign in a conspicuous location where it is readily visible by persons entering the establishment. ~~[The executive commissioner by rule shall specify the size, design, and graphic design of the sign.]~~ The sign must have dimensions of at least 11 inches by 17 inches and must contain the following wording:

Repeated exposure to ultraviolet radiation may cause chronic sun damage characterized by wrinkling, dryness, fragility, bruising of the skin, and skin cancer.

DANGER: ULTRAVIOLET RADIATION

Failure to use protective eyewear may result in severe burns or permanent injury to the eyes.

Medications or cosmetics may increase your sensitivity to ultraviolet radiation. Consult a physician before using a sunlamp if you are using medications, have a history of skin

problems, or believe you are especially sensitive to sunlight. Pregnant women or women taking oral contraceptives who use this product may develop discolored skin.

A tanning facility operator who violates a law relating to the operation of a tanning facility is subject to a civil or criminal penalty. If you suspect a violation, please contact your local law enforcement authority or local health authority. [A customer may call the Department of State Health Services at (insert toll-free telephone number) to report an alleged injury regarding this tanning facility.]

**IF YOU DO NOT TAN IN THE SUN, YOU ARE UNLIKELY TO TAN FROM
USE OF AN ULTRAVIOLET LAMP OR SUNLAMP.**

(b) A tanning facility operator shall also post a warning sign at each tanning device in a conspicuous location that is readily visible to a person about to use the device. ~~[The executive commissioner by rule shall specify the size, design, and graphic design of the sign.]~~ The sign must have dimensions of at least 11 inches by 17 inches and must contain the following wording:

DANGER: ULTRAVIOLET RADIATION

1. Follow the manufacturer's instructions for use of this device.
2. Avoid too frequent or lengthy exposure. As with natural sunlight, exposure can cause serious eye and skin injuries and allergic reactions. Repeated exposure may cause skin cancer.
3. Wear protective eyewear. Failure to use protective eyewear may result in severe burns or permanent damage to the eyes.
4. Do not sunbathe before or after exposure to ultraviolet radiation from sunlamps.
5. Medications or cosmetics may increase your sensitivity to ultraviolet radiation. Consult a physician before using a sunlamp if you are using medication, have a history of skin problems, or believe you are especially sensitive to sunlight. Pregnant women or women using oral contraceptives who use this product may develop discolored skin.

A tanning facility operator who violates a law relating to the operation of a tanning facility is subject to a civil or criminal penalty. If you suspect a violation, please contact your local law enforcement authority or local health authority. [A customer may call the Department of State Health Services at (insert toll-free telephone number) to report an alleged injury regarding this tanning device.]

**IF YOU DO NOT TAN IN THE SUN, YOU ARE UNLIKELY TO TAN FROM
USE OF THIS DEVICE.**

SECTION 3.013. Sections 145.008(i) and (j), Health and Safety Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, are amended to read as follows:

(i) A record of each customer using a tanning device shall be maintained at the tanning facility at least until the third anniversary of the date of the customer's last use of a tanning device. ~~[The executive commissioner by rule shall prescribe the form and content of the records.]~~ The record shall include:

- (1) the date and time of the customer's use of a tanning device;
- (2) the length of time the tanning device was used;
- (3) any injury or illness resulting from the use of a tanning device;
- (4) any written informed consent statement required to be signed under Subsection (e);
- (5) the customer's skin type, as determined by the customer by using the Fitzpatrick scale for classifying a skin type;
- (6) whether the customer has a family history of skin cancer; and
- (7) whether the customer has a past medical history of skin cancer.

(j) An operator shall keep an incident log at each tanning facility. The log shall be maintained at the tanning facility at least until the third anniversary of the date of an

incident. ~~[The executive commissioner by rule shall prescribe the form and content of the log.]~~ The log shall include each:

- (1) alleged injury;
- (2) use of a tanning device by a customer not wearing protective eyewear;
- (3) mechanical problem with a tanning device; and
- (4) customer complaint.

SECTION 3.014. Section 145.0096, Health and Safety Code, is amended by amending Subsections (a) and (b) and adding Subsection (a-1) to read as follows:

(a) *This section applies only to a business that:*

(1) *is operated under a license or permit as a sexually oriented business issued in accordance with Section 243.007, Local Government Code; or*

(2) *offers, as its primary business, a service or the sale, rental, or exhibition of a device or other item that is intended to provide sexual stimulation or sexual gratification to a customer.*

(a-1) A business to which this section applies ~~[described by Section 145.0095(a)(1) or (2)]~~ may not use the word “tan” or “tanning” in a sign or any other form of advertising.

(b) A person commits an offense if the person violates Subsection (a-1) ~~[(a)]~~. Except as provided by Subsection (c), an offense under this subsection is a Class C misdemeanor.

SECTION 3.015. The heading to Section 145.011, Health and Safety Code, is amended to read as follows:

Sec. 145.011. **ACCESS TO RECORDS** ~~[RULES; INSPECTION]~~.

SECTION 3.016. Section 145.011(c), Health and Safety Code, is amended to read as follows:

(c) A person who is required to maintain records under this chapter or a person in charge of the custody of those records shall, at the request of a ~~[an authorized agent or]~~ health authority, permit the ~~[authorized agent or]~~ health authority access to copy or verify the records at reasonable times.

SECTION 3.017. Sections 145.0121(a) and (f), Health and Safety Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, are amended to read as follows:

(a) If it appears that a person has violated or is violating this chapter ~~[or an order issued or a rule adopted under this chapter]~~, ~~[the department may request]~~ the attorney general, or the district, ~~[or]~~ county, ~~[attorney]~~ or ~~[the]~~ municipal attorney ~~[of a municipality]~~ in the jurisdiction where the violation is alleged to have occurred or may occur, ~~may~~ ~~[to]~~ institute a civil suit for:

- (1) an order enjoining the violation;
- (2) a permanent or temporary injunction, a temporary restraining order, or other appropriate remedy ~~[if the department shows that the person has engaged in or is engaging in a violation]~~;
- (3) the assessment and recovery of a civil penalty; or
- (4) both injunctive relief and a civil penalty.

(f) The ~~[department or the]~~ attorney general may ~~[each]~~ recover reasonable expenses incurred in obtaining injunctive relief or a civil penalty under this section, including investigation and court costs, reasonable attorney's fees, witness fees, and other expenses. ~~[The expenses recovered by the department under this section shall be used for the administration and enforcement of this chapter.]~~ The expenses recovered by the attorney general shall be used by the attorney general.

SECTION 3.018. Section 145.013(a), Health and Safety Code, is amended to read as follows:

(a) A person, other than a customer, commits an offense if the person violates this chapter ~~[or a rule adopted under this chapter]~~.

SECTION 3.019. Section 145.016(b), Health and Safety Code, is amended to read as follows:

(b) An operator or other person may disclose a customer record:

- (1) if the customer, or a person authorized to act on behalf of the customer, requests the record;
- (2) if ~~a [the commissioner or an authorized agent or]~~ health authority requests the record under Section 145.011;
- (3) if the customer consents in writing to the disclosure to another person;
- (4) in a criminal proceeding in which the customer is a victim, witness, or defendant;
- (5) if the record is requested in a criminal or civil proceeding by court order or subpoena; or
- (6) as otherwise required by law.

SECTION 3.020. Section 1001.071(b), Health and Safety Code, as redesignated by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(b) The department is responsible for administering human services programs regarding the public health, including:

- (1) implementing the state's public health care delivery programs under the authority of the department;
- (2) administering state health facilities, hospitals, and health care systems;
- (3) developing and providing health care services, as directed by law;
- (4) providing for the prevention and control of communicable diseases;
- (5) providing public education on health-related matters, as directed by law;
- (6) compiling and reporting health-related information, as directed by law;
- (7) acting as the lead agency for implementation of state policies regarding the human immunodeficiency virus and acquired immunodeficiency syndrome and administering programs related to the human immunodeficiency virus and acquired immunodeficiency syndrome;
- (8) investigating the causes of injuries and methods of prevention;
- (9) administering a grant program to provide appropriated money to counties, municipalities, public health districts, and other political subdivisions for their use to provide or pay for essential public health services;
- (10) administering the registration of vital statistics;
- (11) licensing, inspecting, and enforcing regulations regarding health facilities, other than long-term care facilities regulated by the Department of Aging and Disability Services;
- (12) implementing established standards and procedures for the management and control of sanitation and for health protection measures;
- (13) enforcing regulations regarding radioactive materials;
- (14) enforcing regulations regarding food, ~~[bottled and vended drinking water,]~~ drugs, cosmetics, and health devices;
- (15) enforcing regulations regarding food service establishments, retail food stores, mobile food units, and roadside food vendors;
- (16) enforcing regulations controlling hazardous substances in households and workplaces; and
- (17) implementing a mental health program for veterans.

SECTION 3.021. Section 32.074(a), Human Resources Code, is amended to read as follows:

(a) In this section, “personal emergency response system” has the meaning assigned by Section 1702.331, *Occupations* [781.001, ~~Health and Safety~~] Code.

SECTION 3.022. Section 843.002(24), Insurance Code, is amended to read as follows:

(24) “Provider” means:

(A) a person, other than a physician, who is licensed or otherwise authorized to provide a health care service in this state, including:

(i) a chiropractor, registered nurse, pharmacist, optometrist, ~~[registered optician]~~ or acupuncturist; or

(ii) a pharmacy, hospital, or other institution or organization;

(B) a person who is wholly owned or controlled by a provider or by a group of providers who are licensed or otherwise authorized to provide the same health care service; or

(C) a person who is wholly owned or controlled by one or more hospitals and physicians, including a physician-hospital organization.

SECTION 3.023. Sections 351.005(a) and (d), Occupations Code, are amended to read as follows:

(a) This chapter does not:

(1) apply to an officer or agent of the United States or this state in performing official duties;

(2) prevent or interfere with the right of a physician licensed by the Texas ~~[State Board of]~~ Medical Board ~~[Examiners]~~ to:

(A) treat or prescribe for a patient; or

(B) direct or instruct a person under the physician’s control, supervision, or direction to aid or attend to the needs of a patient according to the physician’s specific direction, instruction, or prescription;

(3) prevent a person from selling ready-to-wear eyeglasses as merchandise at retail;

(4) prevent an unlicensed person from making simple repairs to eyeglasses;

(5) ~~[prevent or interfere with the right of a dispensing optician registered under Chapter 352 to engage in spectacle or contact lens dispensing under that chapter;~~

~~[(6)]~~ prevent an ophthalmic dispenser who does not practice optometry or therapeutic optometry from measuring interpupillary distances or making facial measurements to dispense or adapt an ophthalmic prescription, lens, product, or accessory in accordance with the specific directions of a written prescription signed by an optometrist, therapeutic optometrist, or licensed physician;

(6) ~~[(7)]~~ prevent the administrator or executor of the estate of a deceased optometrist or therapeutic optometrist from employing an optometrist or therapeutic optometrist to continue the practice of the deceased during estate administration; or

(7) ~~[(8)]~~ prevent an optometrist or therapeutic optometrist from working for the administrator or executor of the estate of a deceased optometrist or therapeutic optometrist to continue the practice of the deceased during estate administration.

(d) Continuation of the practice of a deceased optometrist or therapeutic optometrist by an estate under Subsections (a)(6) and (7) ~~[(a)(7) and (8)]~~ must:

(1) be authorized by the county judge; and

(2) terminate before the first anniversary of the date of death of the optometrist or therapeutic optometrist.

SECTION 3.024. Section 353.004, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 353.004. PUBLIC INFORMATION ON PRESCRIPTION RELEASE. ~~[(a)]~~ The ~~[department and the]~~ Texas Optometry Board shall prepare and provide to the public

and appropriate state agencies information regarding the release and verification of contact lens prescriptions.

~~[(b) The executive commissioner may adopt rules necessary to implement this section.]~~

SECTION 3.025. Section 353.1015(b), Occupations Code, is amended to read as follows:

(b) A prescription is considered verified under this section if:

(1) the prescribing physician, optometrist, or therapeutic optometrist by a direct communication confirms that the prescription is accurate;

(2) the prescribing physician, optometrist, or therapeutic optometrist informs the person dispensing the contact lenses that the prescription is inaccurate and provides the correct prescription information; or

(3) the prescribing physician, optometrist, or therapeutic optometrist fails to communicate with the person dispensing the contact lenses not later than the eighth business hour after the prescribing physician, optometrist, or therapeutic optometrist receives from the person dispensing the contact lenses the request for verification ~~[or within another similar period specified by rule]~~.

SECTION 3.026. Section 353.103(a), Occupations Code, is amended to read as follows:

(a) If a patient presents a contact lens prescription to be filled or asks a *person who dispenses contact lenses* ~~[permit holder]~~ to verify a contact lens prescription under Section 353.1015, but requests that fewer than the total number of lenses authorized by the prescription be dispensed, the person dispensing the lenses shall note on the prescription or verification:

(1) the number of lenses dispensed;

(2) the number of lenses that remain eligible to be dispensed under the prescription; and

(3) the name, address, and telephone number ~~[, and license or permit number]~~ of the person dispensing the lenses.

SECTION 3.027. Section 353.104(a), Occupations Code, is amended to read as follows:

(a) If a patient needs an emergency refill of the patient's contact lens prescription, a physician, optometrist, or therapeutic optometrist may telephone or fax the prescription to a *person who dispenses* ~~[authorized to dispense]~~ contact lenses ~~[under Section 353.051]~~ or may verify a prescription under Section 353.1015.

SECTION 3.028. Section 353.151, Occupations Code, is amended to read as follows:

Sec. 353.151. DIRECTIONS FOR INDEPENDENT *DISPENSER* ~~[OPTICIAN]~~; DELEGATION. (a) If a physician's directions, instructions, or orders are to be performed or a physician's prescription is to be filled by a *person* ~~[an optician]~~ who is independent of the physician's office, the directions, instructions, orders, or prescription must be:

(1) in writing or verified under Section 353.1015;

(2) of a scope and content and communicated to the *person* ~~[optician]~~ in a form and manner that, in the professional judgment of the physician, best serves the health, safety, and welfare of the physician's patient; and

(3) in a form and detail consistent with the *person's* ~~[optician's]~~ skill and knowledge.

(b) A *person who dispenses contact lenses* ~~[holds a contact lens dispensing permit issued under Subchapter B]~~ may measure the eye or cornea and may evaluate the physical fit of lenses for a particular patient of a physician if the physician has delegated in writing those responsibilities regarding that patient to the person in accordance with Subsection (a) and Section 351.005.

(c) If a physician notes on a spectacle prescription "fit for contacts" or similar language and has, as required by Subsections (a) and (b), specifically delegated to a specific *person* ~~[optician]~~ the authority to make the additional measurements and evaluations necessary for a fully written contact lens prescription, the *person* ~~[optician]~~ may dispense contact

lenses to the patient even though the prescription is less than a fully written contact lens prescription.

SECTION 3.029. The following provisions of the Government Code, including provisions amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, are repealed:

- (1) Section 2165.301(2);
- (2) Section 2165.302; and
- (3) Section 2165.304.

SECTION 3.030. The following provisions of the Health and Safety Code, including provisions amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, are repealed:

- (1) Section 144.001;
- (2) Subchapter B, Chapter 144;
- (3) Sections 144.023(d) and (e);
- (4) Section 144.031;
- (5) Subchapter D, Chapter 144;
- (6) Subchapter E, Chapter 144;
- (7) Subchapter F, Chapter 144;
- (8) Section 144.071;
- (9) Section 144.072;
- (10) Section 144.073;
- (11) Section 144.074;
- (12) Section 144.075;
- (13) Section 144.076;
- (14) Section 144.077;
- (15) Section 144.078(c);
- (16) Section 144.080;
- (17) Section 144.081;
- (18) Section 144.082;
- (19) Section 144.083;
- (20) Section 144.084;
- (21) Section 144.085;
- (22) Section 145.001;
- (23) Section 145.002(1);
- (24) Section 145.004(b);
- (25) Section 145.006(c);
- (26) Section 145.008(k);
- (27) Section 145.009;
- (28) Section 145.0095;
- (29) Section 145.010;
- (30) Sections 145.011(a) and (b);
- (31) Section 145.012;
- (32) Section 145.0122;
- (33) Section 145.015;

- (34) Chapter 345;
- (35) Chapter 385;
- (36) Chapter 441; and
- (37) Chapter 781.

SECTION 3.031. The following provisions of the Occupations Code, including provisions amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, are repealed:

- (1) Section 351.005(c);
- (2) Chapter 352;
- (3) Sections 353.002(2) and (4);
- (4) Section 353.005;
- (5) Subchapter B, Chapter 353;
- (6) Section 353.202;
- (7) Section 353.2025;
- (8) Section 353.203;
- (9) Section 353.204(b); and
- (10) Section 353.205.

SECTION 3.032. On the effective date of this Act, a license, permit, certification of registration, or other authorization issued under a law that is repealed by this article expires.

SECTION 3.033. The changes in law made by this article do not affect the validity of a disciplinary action or other proceeding that was initiated before the effective date of this Act and that is pending before a court or other governmental entity on the effective date of this Act.

SECTION 3.034. (a) An offense under or other violation of a law that is repealed by this article is governed by the law in effect when the offense or violation was committed, and the former law is continued in effect for that purpose.

(b) For purposes of this section, an offense or violation was committed before the effective date of this Act if any element of the offense or violation occurred before that date.

SECTION 3.035. The repeal of a law by this article does not entitle a person to a refund of an application, licensing, or other fee paid by the person before the effective date of this Act.

ARTICLE 4. EFFECTIVE DATE

SECTION 4.001. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2015.

(b) Part 2 of Article 1 of this Act takes effect September 1, 2017.

Passed the Senate on May 14, 2015: Yeas 31, Nays 0; May 26, 2015, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 27, 2015, House granted request of the Senate; May 30, 2015, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0; passed the House, with amendments, on May 25, 2015: Yeas 143, Nays 1, one present not voting; May 27, 2015, House granted request of the Senate for appointment of Conference Committee; May 28, 2015, House adopted Conference Committee Report by the following vote: Yeas 146, Nays 0, two present not voting.

Approved June 17, 2015.

Effective September 1, 2015, except as provided by § 4.001(b).